Supreme Court U. S.
FILED
MAR 19 1975
MICHAEL RODAK, JR., CLERK

EXHIBITS

SUPREME COURT OF THE UNITED STATES

TERM, 1974

NO. 74-676

W. J. ESTELLE, JR.,
Petitioner

V.

HARRY LEE WILLIAMS,
Respondent

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FILED NOVEMBER 29, 1974
CERTIORARI GRANTED JANUARY 27, 1975

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[fol.4]

REQUEST FOR APPOINTMENT OF COUNSEL AND
ORDER OF THE COURT THEREON.
FILED JUNE 19, 1970

CAUSE NO. _____

THE STATE OF TEXAS	X	IN THE ___ DISTRICT
	X	COURT OF HARRIS
V.	X	COUNTY, TEXAS
	X	
HARRY WILLIAMS	X	

(Charges filed in Judge Touchy's Court
No. 336166 - June 10, 1970)

REQUEST FOR APPOINTMENT OF COUNSEL

NOW COMES Harry Williams defendant in the above-entitled and numbered cause and respectfully shows the Court

(1) that I have been charged with the offense of ASSAULT TO MURDER (Presently pending before the Grand Jury)
(2) that I am too poor to employ counsel.

THEREFORE, I respectfully request the Court to appoint counsel to defend me.

s/ Harry Lee Williams
Defendant

BEFORE ME the undersigned authority on this the 8th day of June, 1970, per-

sonally appeared Harry Williams who after being by me duly sworn stated upon oath that the above facts are true and correct.

(Notary Seal)

s/ Jack Paul Cox
Notary Public in and for Harris County, Texas

O R D E R

The Court being satisfied that the above-named defendant is too poor to employ counsel:

IT IS ORDERED THAT FRANCIS L. WILLIAMS, 711 Main, CA 7-9238 a member of the Bar is hereby appointed to represent the defendant in all matters pertaining to this action in this and any subsequent court until relieved by order of the Court.

In addition to the foregoing appointed trial counsel, it is further ordered that JIM LOVETT, a staff attorney of the Houston Legal Foundation, is hereby appointed to advise and counsel with the appointed

trial counsel in the preparation of the defense.

Done this 16th day of June, 1970.

s/ E. B. Duggan
Judge Presiding

[fol.5]

INDICTMENT NO. 151738
FILED: JUNE 29, 1970

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jury of Harris County, State of Texas, duly organized at the May Term, A.D. 1970 of 177th District Court _____ of said County, in said Court, at said term, do present that

HARRY LEE WILLIAMS

on or about the 20th day of May, A.D. 1970, in said County and State, did with malice aforethought in and upon Ray Neatherlin make an assault, with the intent then and there to kill the said Ray Neatherlin.

Against the peace and dignity of the State.

s/ Alan Grab
Foreman of the Grand Jury.

[fol.6] * * *

[fol.7]

CHARGE OF THE COURT
FILED: NOVEMBER 10, 1970

CAUSE NO. 151,738

THE STATE OF TEXAS	IN THE 177TH DISTRICT
	COURT OF HARRIS
V.	COUNTY, TEXAS
	NOVEMBER TERM,
HARRY LEE WILLIAMS	A. D. 1970

MEMBERS OF THE JURY:

The defendant, Harry Lee Williams, stands charged by indictment with the offense of assault with intent to murder, with malice aforethought, one Ray Neatherlin, alleged to have been committed in Harris County, Texas on or about the 20th day of May, A.D. 1970. To this charge the defendant has pleaded not guilty.

In order that you may understand the nature of the offense with which defendant is charged, it is necessary that the court define for you the offenses of assault and of murder.

1.

The use of any unlawful violence upon the person of another with intent to injure him, whatever be the means or degree of violence used, is an assault and battery. Any attempt to commit a battery, or any threatening gesture, showing in itself or by words accompanying it an immediate intention, coupled with an ability to commit a battery, is an assault.

By the expression "coupled with an ability to commit a battery" is meant that the person making the assault must, at the time, be in such a position and within such distance of the person so assailed, that, if not prevented, he may inflict a battery upon such person by the use of the means with which he attempts it. [fol.8]

2.

Whoever shall voluntarily kill any person within this State shall be guilty

of murder. Murder is distinguishable from every other species of homicide by the absence of circumstances which reduce the offense to negligent homicide, or which excuse or justify the killing.

Murder, as defined above, may be committed either with or without malice aforethought.

"Malice aforethought" is a condition of the mind which shows a heart regardless of social duty and fatally bent on mischief, the existence of which is inferred from acts committed or words spoken.

Murder without malice aforethought is a voluntary homicide committed without justification or excuse under the immediate influence of a sudden passion arising from an adequate cause, by which it is meant such cause as would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary

temper sufficient to render the mind incapable of cool reflection.

3.

Now if you believe from the evidence beyond a reasonable doubt that on or about the 20th day of May, A.D. 1970, in Harris County, Texas, the defendant, Harry Lee Williams, with malice aforethought, as that term has been defined, did make an assault in and upon Ray Neatherlin by stabbing him with a knife, with the intent to then and there kill the said Ray Neatherlin, you will find the defendant guilty of an assault with intent to murder with malice aforethought.

[fol.9]

4.

If you find from the evidence beyond a reasonable doubt that the defendant, at the time and place aforesaid, did then and there make an assault in and upon Ray Neatherlin by stabbing him with a

knife, with intent to then and there kill the said Ray Neatherlin, but from all the facts and circumstances in evidence, both those occurring at or about the time of the stabbing and prior thereto, you have a reasonable doubt as to whether the defendant was prompted by malice aforethought, as that term has been defined herein, then you will find the defendant guilty of assault with intent to murder without malice aforethought.

5.

If, from the evidence you believe beyond a reasonable doubt that the defendant, under the instructions given you in this charge and under the facts in evidence, is guilty of an assault with intent to murder Ray Neatherlin, but, from all facts and circumstances in evidence at or about the time of the stabbing, and prior thereto, you have a reasonable doubt whether the defendant was prompted with

malice aforethought, then you must give the defendant the benefit of that doubt, and in such case, you can only find him guilty of an assault with intent to murder without malice aforethought.

In any event, unless you find from the evidence beyond a reasonable doubt that defendant is guilty of assault with intent to murder, or if you have a reasonable doubt thereof, you cannot convict him of that grade of offense, either with malice aforethought or without malice aforethought.

[fol.10]

6.

You are instructed that an intent to kill is an essential element of assault with intent to murder, and unless you find from the evidence beyond a reasonable doubt that at the time the defendant stabbed the said Ray Neatherlin, if he did, the defendant had the specific intent then and

there to kill the said Ray Neatherlin, or if you have a reasonable doubt thereof, you cannot find defendant guilty of assault with intent to murder.

[fol.11]

A defendant in a criminal case is not bound by law to testify in his own behalf therein but the failure of any defendant to so testify shall not be taken as a circumstance against him nor shall the same be alluded to nor commented upon by the jury, and you must not refer to, mention, comment upon or discuss the failure of the defendant to testify in this case, and any juror doing so may be guilty of contempt of court. If any juror starts to mention the defendant's failure to testify in this case then it is the duty of the other jurors to stop him at once.

[fol.12]

A grand jury indictment is the means whereby a defendant is brought to trial

in a felony case. It is not evidence of guilt nor can it be considered by you in passing upon the question of guilt of the defendant. The burden of proof in all criminal cases rests upon the state throughout the trial, and never shifts to the defendant.

The defendant is presumed to be innocent until his guilt is established by legal evidence beyond a reasonable doubt, and in case you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you, and these instructions, you will acquit him. You are the exclusive judges of facts proved, of the credibility of the witnesses and the weight to be given their testimony, but the law you shall receive in these written instructions, and you must be governed thereby.

After you retire to the jury room, you should select one of your members as

your foreman. It is his duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing the same as Foreman.

No one has any authority to communicate with you except the officer who has you in charge. During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

[fol.13]

After you have retired, you may communicate with this court in writing through the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or the court concerning any questions

you may have. After you have reached a unanimous verdict, the Foreman will certify thereto by using the appropriate form attached to this charge and signing his name as Foreman. After argument of counsel you may retire to consider your verdict.

s/ Miron J. Love
Judge Presiding

[fol.14]

VERDICT OF THE JURY

FILED: NOVEMBER 10, 1970

"We, the Jury, find the defendant, Harry Lee Williams, not guilty."

Foreman of the Jury

"We, the Jury, find the defendant, Harry Lee Williams, guilty of the offense of assault with intent to murder with malice aforethought as charged in the indictment."

s/ W. H. Crisp
Foreman of the Jury

"We, the Jury, find the defendant, Harry Lee Williams, guilty of the offense of assault with intent to murder without malice aforethought."

Foreman of the Jury

[fol.15]

MINUTES OF THE 177TH DISTRICT COURT OF HARRIS COUNTY, TEXAS. AT NOVEMBER TERM, 1970

J U D G M E N T

NO. 151738 :

THE STATE OF TEXAS :

V. :DATE NOVEMBER 9, 1970

HARRY LEE WILLIAMS :

The Defendant having been indicted in the above entitled and numbered cause for the felony offense of assault with intent to murder with malice aforethought, and this cause being this day called for trial, the State appeared by her District Attorney and the Defendant, Harry Lee Williams, appeared in person and by Counsel, Chester E. Darnell, and both parties announced ready for trial. The Defendant was arraigned, and in open court pleaded not guilty to the charge contained in the indictment. Thereupon a jury composed of

W. H. Crisp and eleven others was selected, impanelled, and sworn; and after hearing the indictment read, the Defendant's plea of not guilty thereto, and the evidence submitted; and after having been charged by the Court as to their duty to determine the guilt or innocence of the Defendant; and after hearing the argument of counsel, they retired in charge of the proper officer and returned into open court on the 10th day of November, 1970, the following verdict, which was received by the Court and is here entered of record upon the minutes:

"We, the Jury, find the defendant, Harry Lee [fol.16] Williams, guilty of the offense of assault with intent to murder with malice aforethought as charged in the indictment." /s/ W. H. Crisp, Foreman of the Jury

Thereupon, the Defendant having requested in writing at the time he entered

his plea of not guilty, in open court, that the Judge assess the punishment, and in accordance with law the Court proceeded to hear further evidence on the issue of punishment.

It is therefore considered, ordered, and adjudged by the Court that the Defendant is guilty of the offense of assault with intent to murder with malice aforethought, a felony, as found by the jury, and that he be punished by confinement in the Texas Department of Corrections for ten years, and that the State of Texas do have and recover of the Defendant all costs of the prosecution, for which execution will issue, and that the Defendant be remanded to jail to await the further orders of this Court.

RECORDED: VOLUME 24, PAGE 35 JUDGMENT MINUTES 177TH DISTRICT COURT OF HARRIS COUNTY, TEXAS.

[fol.17]

DEFENDANT'S ORIGINAL MOTION FOR A NEW TRIAL
FILED: NOVEMBER 19, 1970

NO. 151,738

THE STATE OF TEXAS	X	IN THE CRIMINAL
	X	DISTRICT COURT,
VS.	X	177TH DISTRICT COURT
	X	HARRIS COUNTY, TEXAS
HARRY LEE WILLIAMS	X	NOVEMBER TERM, A.D. 1970

DEFENDANT'S ORIGINAL MOTION FOR NEW TRIAL

TO THE HONORABLE MIRON A. LOVE, JUDGE OF SAID COURT:

COMES NOW the Defendant in the above entitled and numbered cause and moves the Court to set aside its judgment and grant a new trial for the following grounds and reasons, to-wit:

I.

For the reason that the testimony clearly indicated that the witness, RAY NEATHERLIN, expected a fight. With such expectation he made no effort to call the Police or any law enforcement agency. Rather, he proceeded quickly, not even

taking time to put on a shirt, to the place where the Defendant was quietly waiting for his friend, MRS. KAY DILLON.

The witness, RAY NEATHERLIN, being a large, robust person weighing nearly two hundred (200) pounds, had a friend who, also taking no time to put on a shirt, went with the witness, RAY NEATHERLIN, to the area where the Defendant sat quietly talking to two ladies, and waited.

The friend and witness, though not taking time to put on a shirt, did hastily get his pistol, to back up his friend, witness RAY NEATHERLIN.

With such a stampede upon the Defendant, it would appear to a reasonable person that the Defendant could easily be in fear of his life. Under such fear, with malice to none, the Defendant could reasonably be expected to use whatever means were available to protect himself.

Being frail body, and certainly no physical match for the witness, RAY NEATHERLIN, the Defendant resorted to the only means available, a pocket knife, to protect and defend himself. Even with the aid and use of his pocket knife, the Defendant was [fol.18] given a severe beating by the witness, RAY NEATHERLIN, who struck and knocked down the Defendant SEVERAL times.

II.

For the reason that the Judgment of the Court is contrary to the law and evidence in the cause now pending before the Court in that, at its worst, the testimony could only show that the Defendant was guilty of some lesser included offense other than assault upon RAY NEATHERLIN with intent to murder him with malice. While it could be inferentially inferred from the testimony given by the witness, RAY NEATHERLIN, that the Defendant could

be guilty of simple assault, assault and battery, perhaps aggravated assault or even possibly assault to murder without malice, the law and the evidence are such that the Defendant could not have been guilty of assault upon RAY NEATHERLIN with intent to murder him and that such assault to murder was made with malice.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that his motion for a new trial be granted for any or each of the reasons stated above.

Respectfully submitted,

s/ Chester E. Darnell
CHESTER E. DARNELL
Darnell & Halden
711 Main Street
Suite 950
Houston, Texas 77002
225-9241

Attorney for Defendant

C E R T I F I C A T E

A copy of this Motion has been mailed or otherwise delivered to Assistant District Attorney JIM SKELTON at the Harris County District Attorney's office, Room 500, Criminal Courts Building, Houston, Texas 77002, this 19th day of November, 1970.

s/ Chester E. Darnell
CHESTER E. DARNELL
Attorney for Defendant

[fol.19]

THE STATE OF TEXAS : IN THE 177TH DISTRICT COURT OF HARRIS
VS. NO. 151738 : COUNTY, TEXAS
NOVEMBER TERM, A.D.
HARRY LEE WILLIAMS : 1970

BE IT REMEMBERED THAT on the 9th day of December, A.D. 1970, came on to be heard the Original motion of the Defendant, Harry Lee Williams, for a new trial in the above entitled and numbered cause; and appeared the parties, the State by her District Attorney and the Defendant, Harry Lee Williams, in person and by counsel, and the said motion and controversion of the State thereto, and evidence and the argument of counsel thereon having been heard by the Court, the Court is of the opinion that the said motion should be overruled and refused.

It is therefore CONSIDERED, ORDERED, and ADJUDGED by the Court that the said

motion for a new trial be refused and overruled, to which order and judgment of the Court the Defendant, Harry Lee Williams, excepts.

RECORDED: VOLUME 5, PAGE 170 GENERAL MINUTES 177th DISTRICT COURT OF HARRIS COUNTY, TEXAS.

[fol.20]

S E N T E N C E

NO. 151738 :

THE STATE OF TEXAS :

V. :DATE DECEMBER 9, 1970

HARRY LEE WILLIAMS :

This day this cause being again called, the State appeared by her District Attorney and the Defendant appeared in person and by Counsel, Chester E. Darnell, for the purpose of having sentence of the law pronounced in accordance with the verdict and the judgment rendered and entered against him on a former day of this term. And thereupon the said Defendant was asked by the Court whether he had anything to say why sentence should not be pronounced against him, and he answered nothing in bar thereof. Whereupon the Court proceeded, in the presence of said Defendant, to pronounce sentence against him as follows, to wit:

"It is the order of the Court that the Defendant, Harry Lee Williams, who has been adjudged to be guilty of assault with intent to murder with malice aforethought, a felony, and whose punishment has been assessed at confinement in the Texas Department of Corrections for ten years, be delivered by the Sheriff of Harris County, Texas, immediately to the Director of Corrections of the State of Texas, or other person legally authorized to receive such convicts, and said Defendant shall be confined in said Department of Corrections for not less than two years nor more than ten years in accordance with the [fol.21] provisions of law governing the Texas Department of Corrections."

The said Defendant was remanded to jail until said Sheriff can obey the directions of this sentence. This sentence to begin May 21, 1970.

To which action of the Court, the Defendant then and there, in open court, excepted and gave notice of appeal to the Court of Criminal Appeals of the State of Texas, Austin, Texas. And inasmuch as said Defendant has given notice of appeal herein, execution of the sentence is deferred to await the judgment and order of our Court of Criminal Appeals in this behalf.

Bail in the sum of $10,000.00 is allowed the defendant herein pending appeal.

RECORDED: VOLUME 24, PAGE 36 JUDGMENT MINUTES 177TH DISTRICT COURT OF HARRIS COUNTY, TEXAS.

[fol.30]

CAUSE NO. 151,738

THE STATE OF TEXAS	)	IN THE DISTRICT
	)	COURT OF HARRIS
	)	COUNTY, TEXAS
V.	)	177TH JUDICIAL
	)	DISTRICT, NOVEMBER
HARRY LEE WILLIAMS	)	TERM, A.D. 1970

VOIR DIRE OF JURY PANEL

[fols. 31-44] * * *

[fol.45]

MR. SKELTON: You have never served on any criminal juries in California, Florida, or anywhere else?

MR. STALLINGS: No, sir.

MR. SKELTON: Mr. Weaver, I notice you have not served on any juries.

MR. WEAVER: Yes, sir.

MR. SKELTON: You are a warehouse foreman. Prior to that --

MR. WEAVER: I was a field foreman for the same company.

MR. SKELTON: I presume you have never had any particular friend, acquaintances, charged with a crime, where they were accused of a crime of violence? You have never had a friend or loved one that was actually a victim of a crime of violence?

MR. WEAVER: No, sir.

MR. SKELTON: This defendant is sitting in jail clothes. I am assuming

he's been in jail to the time of this trial. You are not to take this into consideration. The fact a man is in jail clothes shouldn't make you feel he is guilty any more than if he were in street clothes.

[fol.46]

The second thing, oftentimes evidence will come out that a person has been in jail for seven months or eight months awaiting trial. By the same token, this should not be taken into consideration on your verdict, because you are supposed to go straight down the line, guilty or not guilty, and not let how a person is dressed influence your decision. Could you do that in this case?

MR. WEAVER: Yes, sir.

MR. SKELTON: Is it Mrs. McCalman?

MRS. McCALMAN: Yes, sir.

MR. SKELTON: You are a PBX receptionist?

MRS. McCALMAN: Right.

MR. SKELTON: You have never served on a jury?

MRS. McCALMAN: No, sir.

MR. SKELTON: How about your husband?

MRS. McCALMAN: Yes, sir.

MR. SKELTON: What type of case?

MRS. McCALMAN: Civil, I believe.

[fols. 47-51] * * *

[fol.52]

* * * * *

MR. BELL: Yes, sir.

MR. SKELTON: You have heard the questions I asked. I have gone over reasonable doubt, gone over the business of how the defendant was dressed, the fact he may or may not have been in the jail all this time. Would your answers by any different than the other jurors? Would you give us a fair trial as well as this defendant?

MR. BELL: Yes, sir.

MR. SKELTON: It just says "Executive for American" who?

MR. CRISPIN: Steel Building Company.

MR. SKELTON: You were born in Belguim. How long have you been over here?

MR. CRISPIN: Eighteen years.

MR. SKELTON: Have you ever served on a jury since you have been over here?

MR. CRISPIN: No.

MR. SKELTON: Thank you very much.

* * * * *

[fols.53-73] * * *

[fol.74]

* * * * *

EXAMINATION BY MR. DARNELL:

MR. DARNELL: I am Chester Darnell, the attorney for the defendant, Harry Lee Williams. Does anyone in this panel know me or know of me. I'm with the firm Darnell & Hall in Houston.

This is Harry Lee Williams. Does anyone recognize him?

I will go over some of the things that the prosecutor did and ask you a few questions.

As he stated, the burden of proving this man guilty rests strictly with the State. He's been charged, and as the Judge has stated, you are to presume him innocent until he is proven guilty.

I want to ask all of you the one general question, is there any person here

that feels they could not give this man a fair trial or could not after hearing evidence be fair to him, would you raise your hand, for any [fol.75] reason whether it's race, looks or something of that nature?

As you heard, he is in jail clothes. Would that affect anyone's opinion of him?

You are Mr. Stallings and you work for a computer company?

MR. STALLINGS: That's right.

MR. DARNELL: And, as I recall you have not served on a jury?

MR. STALLINGS: No, I haven't.

MR. DARNELL: Your wife is a teacher?

MR. STALLINGS: That's right.

* * * * *

[fol.102] CAUSE NO. 151,738

THE STATE OF TEXAS	X	IN THE DISTRICT
	X	COURT OF HARRIS
	X	COUNTY, TEXAS
V.	X	177TH JUDICIAL
	X	DISTRICT, NOVEMBER
HARRY LEE WILLIAMS	X	TERM, A.D. 1970

* * * * *

A P P E A R A N C E S:

For the State of Texas: Mr. Jim Skelton
Assistant District Attorney, Harris County, Texas

For the Defendant: Mr. Chester E. Darnell, Attorney at Law, Houston, Texas

* * * * *

BE IT REMEMBERED that upon this the 9th day of November, A.D. 1970, the above styled and numbered cause came for Trial before the Honorable Miron A. Love, Judge of the 177th District Court of Harris County, Texas, and a jury; and both the State and Defendant appearing in person and/or by Counsel, announced ready for trial; and all preliminary matters having been disposed of, a jury was duly

selected, empaneled and sworn, and proceedings had, the following facts were adduced in evidence, viz:

[fol.103]

THE COURT: Will the defendant stand and be arraigned.

(AT THIS TIME THE DEFENDANT IS ARRAIGNED:)

THE COURT: How do you plead on arraignment?

THE DEFENDANT: Not guilty, Your Honor.

THE COURT: All right, you may be seated.

Present the indictment to the jury.

(AT THIS TIME THE INDICTMENT IS PRESENTED TO THE JURY:)

THE COURT: Counsel, will you enter the plea of the defense.

MR. DARNELL: The defendant pleads not guilty, Your Honor.

THE COURT: All right. Because of the hour, members of the jury, we are

not going to give testimony [fol. 104] until 2:00 o'clock, after the noon recess.

Now, during any recess please recall the following instructions so that in case I have to excuse you from the court I won't have to reiterate them each time. But you are not to deliberate upon any of the testimony that's been presented before you until you have finally been charged by the Court to deliberate upon your verdict. You are not to permit anyone to discuss with you outside of this courtroom the fact that you are on this particular jury. If anyone approaches you for the purpose of discussing that, you should report that to the Court at your first opportunity.

Will you please be back in the court by 2:00 o'clock so that we can take the testimony beginning approximately at that hour. We will stand recessed at this time.

[fol.105] (NOON RECESS)

THE COURT: Are you ready to proceed now on the Harry Lee Williams case?

MR. SKELTON: The State is ready.

THE COURT: Bring the jury in.

(AT THIS TIME THE JURY IS RETURNED TO THE COURTROOM.)

THE COURT: Members of the jury, the delay was not caused by either of the lawyers in this case but by other matters the Court had before it that are unrelated to this case. But we are prepared to proceed now.

MR. DARNELL: Your Honor, the defendant would like to invoke the Rule.

THE COURT: Who is your first witness?

MR. SKELTON: Ray Neatherlin.

[fol.106]

THE COURT: The Rule has been invoked. This means the other witnesses must remain outside of the courtroom except while you are tesifying. You are not to discuss your testimony among yourselves or permit

anyone other than the lawyers to discuss it with you.

[fol.107]

TESTIMONY OF RAY NEATHERLIN,

WHEREUPON THE SAID RAY NEATHERLIN WAS CALLED AS A WITNESS BY THE STATE AND, HAVING FIRST BEEN DULY SWORN AND CAUTIONED ON HIS OATH, ASSUMED THE WITNESS STAND AND UPON EXAMINATION, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q State your name, please, sir.

A Ray Neatherlin.

Q Mr. Neatherlin, where do you work?

A Self-employed.

Q What do you do, please, sir?

A I move houses and also have some apartments.

Q How long have you been in this line of business?

A Twenty-five years.

Q You mentioned you had some apart-

ments.

A I have some apartments.

Q How long have you had these apartments?

A About two years.

[fol.108]

Q Where are they located?

A 619 East 7th.

Q Is that the area we commonly call the Heights?

A Correct.

Q Where do you live?

A I live there in the apartment project.

Q Do you manage them as owner as such?

A Yes, sir.

Q Were you living there on the 20th day of May, 1970?

A Yes, sir.

Q Do you know this defendant, Mr. Harry Lee Williams?

A Yes, sir.

Q Would you point him out for the benefit of the Judge and jury, please?

A He's the fellow with the white uniform on.

Q How long have you known Mr. Williams?

A Oh, he moved there in the apartment, stayed about three months.

Q Was this three months prior to the 20th day of May?

A Yes, sir.

Q So I presume about April, somewhere around March or April he moved in, correct?

[fol.109]

A Somewhere along there.

Q How long did he stay in your apartments?

A Approximately three months.

Q Then he left, I presume?

A Left, yes, sir.

Q Did you have an occasion to see him after he left, see him the 20th day of May, 1970?

A I didn't see him until the day he came back over, the time we had the little run-in, I had the hot checks on him.

Q About what time of day was it?

A It was late in the afternoon, I believe about 8:30 probably, something like that.

Q Was it daylight or dark at this time?

A Daylight.

Q Mr. Neatherlin, I think if you will pull this blackboard around, if you draw a diagram of the apartment your story will be a little more understandable.

If you would draw the streets where your apartments are located and the buildings -- have to make them pretty big so the jury can see them.

Now, Oxford runs north and south, doesn't it?

[fol.110]

A Yes, sir.

Q So north would be up to your right?

A North, yes, sir. East 7th Street dead ends right into this project. I will just draw a kind of picture of the property. These apartments start like this.

Q Are those separate buildings?

A Yes, sir.

Q How many apartments in each building?

A Four apartments in each one.

Q Are they upstairs and downstairs?

A All downstairs. Now, then, the apartment that I live in is here.

Q Now, which way does the front door face? Does it face down toward the bottom of the blackboard?

A Toward the east.

Q You faced east then, correct?

A I faced east.

Q You mentioned on May 20th you had an occasion to see this defendant prior to then. Had somebody been over to your apartment?

A yes, sir.

Q Who was that, please sir?

A Some little lady, a little girl came over to [fol.111] tell Mrs. Kay Tolley --

Q Was Mrs. Kay Tolley a tenant?

A Yes, sir.

Q Where did Mrs. Tolley live?

A She lived in the second door of this apartment right here.

Q Where is Mrs. Kay Tolley now?

A I believe she's in Kansas or someplace now. I forget what state.

Q She has moved from the apartment area and out of the state?

A yes, sir.

Q When did she move, do you remember?

A About three or four weeks after this little incident happened.

Q You said Mrs. Tolley was over to your apartment?

A Yes, sir.

Q What was she doing over there?

A She was over there to pay her rent, I believe.

Q Was she paying this to you or your wife?

A My wife.

Q Where were you when she was paying the rent?

A I hadn't got in from work.

Q Did you come in from work?

A Yes, sir, while she was still there.

[fol.112]

Q What did you start to do?

A I started to take a shower.

Q You said some little girl came over. Do you know her name?

A I don't know.

Q Do you know where the little girl lives?

A No, sir.

Q Did she live in the apartment area?

A I suppose she did.

Q What did she report to Mrs. Tolley?

A She told her there was someone over there to see her.

Q Did she say who?

A No, she didn't know who.

Q Could you hear all of this all this time?

A Yes, sir.

Q What did you do when the little girl reported to Mrs. Tolley that somebody was over there to see her?

A Mrs. Tolley asked the little girl who it was. She said, "I don't know." She said, "Was it a man?" She said, "Yes". She said, "Well, he just came back to give trouble."

Q Did you know who they were talking about?

A Yes.

[fol.113]

Q How did you know who they were talking about?

A She said, "That is Mr. Williams."

Q Are you talking about the defendant over here, Mr. Williams?

A Yes, sir.

Q And you knew that is who they were talking about?

A Yes, sir.

Q What did you do when you heard Mr. Williams was back in the area?

A Well, when I walked in and she was there, she asked me if I had seen him. I said, "No, I haven't seen him."

Q That is Mrs. Tolley asked you that?

A Yes.

Q Okay.

A So she said to the little girl, she said, "Well, that's Mr. Williams." She told my wife, "Well, he just come back to give trouble."

Q Had he been over there before that you know of bothering Mrs. Tolley?

A Not that I know of.

Q What did you do after this, what happened next?

A Well, when she started out I said, "Well, wait a minute, I will go down there with you to see if I can get him to pay off this hot checks."

[fol.114]

Q What checks are you talking about?

A A couple of hot checks I had on him for rent.

Q Is that the reason he moved out of the apartment?

A I guess so.

Q After you left show us where you walked and where you went to.

A I come out this door and walked right around this direction and he was sitting on the porch right here.

Q Who is "he"? You mean the defendant?

A Mr. Williams.

Q Who lives over in that house?

A Jean Owens. The man that lived there was sitting in a chair here and some

other people and he was sitting -- he was sitting on the porch here and these people were sitting out in the yard and when I walked around he saw me and Mrs. Tolley around the corner here and he got up and met us right along here.

Q Draw an "X" where you met.

A Right here.

Q You can have a chair now if you would.

Now, you mentioned some folks by [fol.115] the name of Owens. Are those four buildings still a part of your apartment area?

A Yes, sir.

Q And did the Owens rent from you?

A Yes, sir.

Q So all those buildings, I assume all of those up there are your apartments?

A That is correct.

Q Now, what first occurred when you and Mrs. Tolley and this defendant met out there? What was the first thing you said to this defendant, Mr. Williams?

A I believe I asked him to pay off his hot checks.

Q Did he say helo to you to begin with, or was there any words or greetings exchanged?

A No, sir.

Q Did he say hello to Mrs. Tolley?

A I believe so.

Q Did you have the checks with you at that time?

A No, sir.

Q Did you tell him about the checks?

A Yes.

Q What did he say when you asked him about the checks.

A Well, he wasn't going to pay them.

[fol.116]

Q What did he say?

A Said they weren't his checks.

Q What happened next?

A I asked him about leaving my apartments. See, he went off and left my apartment in a terrible mess.

Q About how much longer was this -- we are talking about May 20th. How long had it been since he had moved out?

A I'd say a couple of months probably, or maybe a little longer, two or three months.

Q What did he say when you asked about the apartment being in such a bad shape?

A He said he paid to have somebody clean it up.

Q What next occurred?

A I told him that he didn't do that, that I had to have it cleaned.

Q What happened after this?

A Well, I think he said "That is a lie" or something and then it started from there. I don't remember exactly.

Q You said it started from there. What are you referring to?

A That is when he cut me.

Q During this discussion were both of you getting [fol.117] angry?

A I didn't understand you.

Q Were both of you getting angry during this discussion?

A I think he was angry to start with.

Q Did he act belligerent when he first walked up to you?

A Yes, sir.

Q You said he cut you. Did you actually see him cut you with anything? Did you see a knife in his hand?

A No, sir. I never saw a knife.

Q How did he cut you?

A With a pocketknife.

Q Where?

A He cut my throat the first lick I believe.

Q What side did he cut you?

A On the left side, fourteen stitches.

Q Did he slap at you or how did he do it?

A I thought he was putting his hand to me; that's when he cut me.

Q Prior to this time -- you said he cut your throat prior to this time. Had you made a gesture toward him?

A No, sir.

[fol.118]

Q Had he grabbed at you prior to this time?

A He grabbed at me.

Q I'm talking about prior to the time he cut your throat.

A Not that I know of.

Q Did you threaten to hit him?

A No, sir.

Q Did you have your fist clinched?

A No, sir.

Q What happened after he cut you across the left side of the neck?

A That's when he reached for me and cut me; that's when I hit him.

Q Did you realize you had been cut at this time?

A I didn't know it, no, sir.

Q Where did you hit him?

A I don't know. In the face somewhere.

Q What happened then? Did you get in a fight after this?

A Yes. He fell on the ground and I stood back like a gentleman and let him get up. Every time he'd get up he was cutting at me and I didn't know it.

Q How many times did he cut you?

A He stabbed me one time, cut me --

[fol.119]

Q You said he cut you once on the neck, fourteen stitches?

A Yes, sir.

Q Where were you stabbed?

A In the chest.

Q How deep was that, if you know?

A The doctor said it was all the way, the length of that knife blade.

Q You were cut where else other than there?

A Well, on my left, right over my heart.

Q How long was that?

A Three different times on the heart.

Q You were cut three times over the heart?

A Yes, sir.

Q About how long were these cuts?

A About twelve inches long.

Q All three of them?

A Yes, sir.

Q Where else were you cut?

A In the stomach.

Q How long was that one?

A Oh, about eight or ten inches.

Q Do you know how many total stitches it took to get you finally repaired?

A Fifty-eight, I believe.

[fol.120]

Q Were you taken to the hospital after this?

A Yes, sir.

Q Do you know what condition you were in at that time, at least what they commonly term serious, critical or fair?

A Critical.

Q And how long were you in the hospital?

A From Wednesday night until Saturday morning.

Q And I assume that you eventually recovered all right since that period of time?

A Well, fair. I'm not in too good of shape.

Q And I assume all this occurred here in Harris County, Texas, did it not?

A Yes, sir.

Q Did you have any type of weapon on you at all?

A Not even a pocketknife.

Q Now, was there anybody else present other than Mrs. Tolley, who either went to Ohio or Kansas, and Mrs. Owens who lived across the street, and this defendant, Harry Lee Williams, was anybody else present?

A There was two or three people sitting in the yard and I don't know who they all were.

Q Was one of the tenants also with you a gentleman by the name of --

[fol.121]

A Bill Stacy.

Q Where does Bill Stacy live?

A He lives directly across from where I live there in the apartment.

Q You mean right across the sidewalk?

A On the end apartment, right in the building right across in front of me.

Q Are you talking about right over here?

A Yes, sir.

Q So this would be where Stacy lived, correct?

A That is correct.

Q Now, when did you first realize that you had been cut?

A After Stacy said, "Look out, he's got a knife".

Q You heard him say that?

A He said that.

Q Did you ever see the knife up until that time?

A I never saw the knife, no, sir.

Q Was he hitting you with an open hand, fist, or how?

A No, he was just cutting me and he kept trying to clinch me, get ahold of me.

Q What did you do after you realized you had been cut up so badly, what did you do then?

A Well, I looked down and saw, looked like my [fol.122] insides hanging out. I took my hand, pushed them back in, sort of bent over, the blood was running so bad I knew I couldn't last long if I didn't get someplace. I turned, walked back to my apartment, sat down on the porch. They give me a towel. I put this towel over it and held it to my stomach and the guy that lived back behind the apartment backed his car up there and took me to the Heights Hospital.

Q Were you cut that deep where your intestines were actually hanging out?

A I don't know whether intestines were hanging out, but it looked to me like it was.

Q Something was?

A Yes. I knew something was hanging out there.

MR. SKELTON: Pass the witness.

[fol.123]

CROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q You stated, I believe, that he cut you on the neck?

A Yes, sir.

Q And did you state that when you were cut you did not know it at the time?

A I didn't actually feel it, no, sir.

Q You stated you did not see a knife in his hand at any time?

A No, sir.

Q Is it possible he could have just moved his hand by at that time and not have cut at that particular time?

A If he did, how come I was cut?

Q But could you have been cut there at a later period instead of that first time you said his hand went by?

A I don't know about that.

Q But you don't know definitely that he did cut you at that moment?

A I never did know when he cut me at any moment. [fol. 124] I never did feel it.

Q But after his hand went by your neck you hit him and knocked him down, is that correct?

A That is correct.

Q And did you not see a knife at that time, and did you not know you were cut?

A I never saw the knife at any time.

Q After you knocked him down he got up?

A Yes, sir.

Q And you knocked him down again?

A He got up and run back toward me.

Q Were you angry when you knocked him down?

A Yes, sir.

Q What made you angry?

A Wouldn't you be?

A Well, it depends. I'm asking you whether you were angry.

A I said yes.

Q And prior to knocking him down the only thing that he had done as far as moving toward you or anything was --

A Hit me across the neck.

Q Well, did he hit you or did you say he cut -- his arm went by, you said you did not feel anything?

[fol.125]

A Well, I felt it when he hit my neck but I didn't know I was cut.

Q Whatever happened, it was no pain or no hurt to you at that time?

A No, sir.

Q Did you think you hurt him when you knocked him down?

A I didn't have any idea.

Q Did you observe during this scuffle whether this defendant had any teeth knocked out?

A No, sir, he didn't have any teeth knocked out.

Q Did anybody assist you in this scuffle at anytime?

A No, sir.

Q What is your weight?

A Sir?

Q What is your weight?

A Two hundred pounds.

Q Did the defendant say anything during the scuffle or any words that you recall?

A He just called me a liar.

Q Well, that was at the time you asked him about some checks, is that correct?

A That is correct.

Q What disposition have you made of those checks as [fol.126] of this time?

A Well, this lady paid them off that he came over there to see. Her husband is the one that gave the checks.

Q Her husband gave the checks?

A To him and he gave them to my wife for his rent.

Q But then I gather from your statement he was not the original maker or original signer of that check?

A No, sir. He didn't sign the check. He was smarter than that.

Q But you never saw any weapon on this defendant at any time?

A No, sir.

Q Did you see any weapon, a knife, a pistol or anything on anyone in this general area where you were?

A No, sir.

Q Did you hear anyone make a remark as to a pistol or knife or anything?

A I heard Stacy when he said, "Watch out, he's got a knife".

Q And there were two or three people in the yard other than Mr. Stacy?

[fol.127]

A That is correct.

Q You do not know their names or who they were?

A Owens was one that I know of.

Q What is his name?

A Well, her name is Jean Owens.

Q Was any of those people of the male sex other than Jean Owens, she would be female, I assume?

A I didn't see anybody, no, sir.

Q Were there two or three people there, women?

A Yes, sir.

Q All of them?

A All of them I think, I'm not positive.

Q How many times did you knock the defendant down, do you recall?

A I think about three times.

Q Did you do anything to him other than knock him down?

A That is all.

Q Push him ever so slightly?

A No, sir.

Q Shove him in any way?

A Not that I remember, no, sir.

Q Did you use any part of your body other than your fist in contact with him?

A Not that I know of.

[fol.128]

Q Is it possible you could have shoved him with your knee?

A No, sir.

MR. DARNELL: I have no more questions.

[fol.129]

REDIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q How old a man are you, please, sir?

A Fifty-eight.

Q And you said you saw the defendant on that date. Was he about the same size as he is now?

A It looks to me like he's lost weight.

Q How big of a man was he on this date?

A He was almost as large a man as I was. I'd say he weighed a hundred eighty.

Q You mentioned a man by the name of Bill Stacy. He walked around the house over to Mrs. Tolley's apartment with you. Where did he come from if you know?

A He came up from behind me as I walked around.

Q Now, you mentioned that when you got over there that he was sitting on the porch. Did he approach you, or did you approach him? How did this come about?

A He got up and met me.

Q Then he came over towards you?

A Yes, sir.

(fol. 130)

Q And all this was on your property, this squabble, the fight, the whole thing?

A Yes, sir.

Q And the way I understand it, that you'd hit him, he'd get back up and slash at you, is that correct?

A I imagine.

Q Did you ever kick him when he was down on the ground or get on top of him, anything like that?

A No, sir.

Q There wasn't a bunch of you ganged up to whip him, was there?

A No, sir. I had no idea it was going to be anything like that.

Q Were you anticipating any trouble when you walked out there with Mrs. Tolley?

A Kind of knowing him, kind of knowing his character, I figured that there might be but I didn't know.

Q Did you have a gun at your apartment?

A Yes, sir.

Q Do you keep one there at all times?

A Yes, sir.

Q Do you have anybody employed at your apartments that's in charge of security like some of these (fol. 131) apartment houses have?

A No, sir, I don't have any security officers. I've got two or three of them that carry guns around there, that kind of protect the property.

Q You look upon them to kind of help you out?

A Yes, sir.

Q Did you have a gun there that day on May 20th?

A I had a gun in my apartment.

Q Did you take it with you?

A No, sir.

Q Why didn't you?

A Well, I didn't think about it being this kind of trouble.

Q So I'm assuming that if you are expecting this kind of trouble, you would have taken your gun?

A I certainly would have.

Q If you had gone out there with the intent to fight him would you have taken that gun?

A I sure would, or something. I wouldn't have went bare-handed without my shirt on.

Q Were you without your shirt?

A Without my shirt, yes, sir.

Q You mentioned, I believe, that you didn't feel any of those cuts?

A No, sir.

(fol. 132)

Q Do you know about how many cuts you got all told?

A Let's see, I got about six I believe and one stab wound.

Q You say fifty-eight stiches, is that what you said?

A Yes, sir, I believe that is correct.

Q You didn't feel any of them then?

A No, sir.

MR. SKELTON: I will pass the witness.

(fol. 133)

RECROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q You stated you have a gun. What type gun do you have?

A .38 snub-nosed Smith & Wesson.

Q The security guards that were mentioned, do they live in this apartment complex?

A Yes, sir.

Q Are they on duty around the clock or at night or --

A Just whenever they are there, to help watch out for the thugs and thieves.

Q They are not full-time employees or regular employees then?

A No, sir.

Q Are they employed as security guards at some other place of business?

A No, sir, not that I know of.

Q Well, I'm trying to clear up why they are considered as security guards.

A Well, they just help watch out for the property and anything that goes on, does it voluntarily because they live there.

(fol. 134)

Q In other words, they have no official capacity as a guard, it's that they live there?

A They live there, yes, sir.

Q Do you have weapons?

A Yes, sir.

Q What type weapons did they have, do you know?

A I don't know what all type they have.

Q How many security guards are there?

A Well, there's not any security guards.

Q How many people?

A How many?

Q How many people would you consider help look after the property?

A Well, I think that there's several around there that do the same thing, I don't know just how many.

Q I don't mean to be repeating, I mean the security guards was used and I was trying to clear that up. Now, as I recall, you stated that they had weapons. Do you know how many people or do you have any idea how many people have weapons in this apartment?

A No, sir.

Q But there are some that do?

A Yes, sir.

(fol. 135)

Q Bill Stacy is a tenant in the project?

A That is correct.

Q Does he have a pistol?

A Yes, sir.

Q Do you know what type it is?

A No, sir, I don't.

Q Have you ever seen his pistol?

A Well, I believe I have seen it, I'm pretty sure.

MR. DARNELL: I have no further questions at this time.

(fol. 136)

FURTHER REDIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q As I understand, you don't have security officers as such, but there are tenants that assist you from time to time in overseeing your property, is that correct?

A That is correct?

MR. SKELTON: I have no further questions of this witness.

We call Mr. Bill Stacy.

(fol. 137)

TESTIMONY OF BILLY W. STACY,

WHEREUPON THE SAID BILLY W. STACY WAS CALLED AS A WITNESS BY THE STATE AND, HAVING FIRST BEEN DULY SWORN AND CAUTIONED ON HIS OATH, ASSUMED THE WITNESS STAND AND UPON EXAMINATION, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q State your name, please, sir.

A Billy W. Stacy.

Q Mr. Stacy, where do you work?

A General Electric.

Q What do you do for G.E.?

A I work in the accounting office.

Q How long have you worked for them?

A Right at five years.

Q Where do you live?

A 619 E. 7th, Apartment 17.

Q Is there a particular name for these apartments?

A Studemont Apartments.

(fol. 138)

Q Those are the ones named by Mr. Neatherlin?

A Ray Neatherlin.

Q Were you living over in that area on the 20th day of May, 1970?

A Yes, sir, I was.

Q What, if anything, unusual happened that evening?

A Well, that's the evening, I believe we are speaking of, Mr. Neatherlin got cut, a man cut him with a knife.

Q Did you have an occasion to see Mr. Neatherlin prior to this cutting?

A Yes, sir. I was sitting on the front porch with my wife when Ray came home from work.

Q About what time was that, if you recall?

A It was about dark, I'd say between 8:00 -- 7:00 and 8:30 roughly.

Q Did you live across the way from Mr. Neatherlin?

A Right.

Q Here is a diagram over here. If you would, look at it, please, sir. Assuming this is Mr. Neatherlin's house, I assume this would be your apartment?

A That is correct.

Q You said you were on the front porch?

A Right.

(fol. 139)

Q You were out there by yourself?

A Wife and next door neighbor and his wife.

Q You say he came home from work?

A Correct.

Q What happened after he came home from work?

A Well, I don't know any of the conversations that was going on in his apartment, but he came out of his house when he came home. He had been working all day. He was sweaty and the clothes were dirty. He came outside of his home in a pair of khaki pants and without a shirt. He was getting ready to take a shower. He looked over towards me, said, "Come on, Stacy, come with me a minute."

Q About how far is it from your house to his front porch?

A When he spoke to me, he was standing on the sidewalk in between the two rows of apartments, which would be about ten feet from my front porch, I imagine.

Q What did he say?

A He said, "Come on, Stacy, come on with me a few minutes." That's not uncommon. That's a new apartment. He shows me things that's going on from time to time.

(fol. 140)

Q Who was with him, if anybody?

A No one.

Q What happened after he told you to come with him?

A I got up, went inside my house and got a pistol.

Q Why did you do that?

A Something about his tone of voice. I have never been hostile with a gun or anything, just something in his tone of voice I knew he expected trouble. There's been occasions of people messing with people's cars.

Q Have you assisted him from time to time when things like this would

occur?

A Yes, sir. During the late hours of night I try to keep the eye on our cars. I'm one of about five men in the apartment to do this.

Q You went, got your pistol?

A Yes, sir.

Q What type?

A Browning .38 automatic.

Q What did you do with it?

A Put it behind my back. I don't believe I had a shirt on either.

Q Did you stick it in your --

A Stuck it in my back.

(fol. 141)

Q Did Mr. Neatherlin wait for you?

A No. He went towards the end of the apartment to go around where this disturbance was at. I had to run to catch up.

Q When you arrived, what did you see, what was going on?

A Looked like Ray was -- drawing some X's there, the second row of apartments at the end of the first row of apartments, I more or less, caught up with him.

Q The first row?

A I'd say the row towards East 7th Street.

Q Here, or where?

A Right there. I had caught up with him at that location.

Q Now, were you walking beside him.

A Behind him, a step or two behind him.

Q What happened? You followed him up here?

A Yes, sir.

Q What happened after you folks arrived up here?

A Well, he approached the gentleman sitting over there in the uniform and I was standing close enough to hear them, yet I didn't want to get involved.

Q Where were you standing? Were you past this (fol. 142) building, about the middle or --

A In the second row of apartments. We made the turn there and walked down the sidewalk and it would be the first apartment on the left is where Ray was addressing the gentleman.

Q Where were you standing?

A To Ray's right, a step to the rear, maybe.

Q About how far back from Ray were you?

A At that time maybe three feet behind him.

Q Did you still have your gun stuck in the back of your belt?

A Yes, sir.

Q You say this gentleman approached Ray?

A Yes, sir.

Q And did you take part in the argument?

A No, none whatsoever.

Q What did you hear spoken or said between Mr. Neatherlin and --

A This is -- I heard this later after Ray and his wife explained this to me, the man had previously lived in this apartment project and Ray had asked him to move on account of some --

Q Let's don't go into that.

A Anyway, Ray Neatherlin told him he didn't want (fol. 143) him on his property, that he had a couple of bad checks on him. He said, "Either come over and pay your rent of get off my property."

Q What happened after he asked him to get off the property?

A He either jumped at Ray, put his hand on his neck or something. I was behind him. I seen him approach Ray, or he called him a vulgar name and this is when the fight started actually.

Q Who grabbed who?

A He grabbed Mr. Neatherlin.

Q Did you see where he hit him?

A I'd say around the neck.

Q You say a fight ensued?

A Right. At that time Ray backed up or he called Ray a name and Ray hit him.

Q This was after the defendant swung at his neck?

A Yes, sir.

Q Then they had a regular fight I suppose?

A Yes, sir.

Q How many times did you see Mr. Neatherlin hit this defendant, Harry Williams?

A I couldn't tell you how many. I don't know how long the fight lasted before --

Q What was Mr. Williams doing all of this time?

(fol. 144)

A He was getting hit. I didn't see him do any swinging back, I mean not with his clinched fist. He was getting very close to Mr. Neatherlin.

Ray would hit him and he'd still stay up there close to him. Like I say, Mr. Neatherlin's back was to me. I couldn't actually see his face, chest or mid section or anything. I did at one time notice how the defendant had his arm stiff with his finger extended and I had seen this one time before in Vietnam and I suspected then he had a knife.

Q What made you think he had a knife?

A I seen a sergeant cut up a man in Vietnam like this and it came out in the trial he was an experienced knife fighter.

Q Did you ever see a knife?

A That is when I pulled my gun out of my back, I said, "Ray, look out. I think he's got a knife." Then Ray jumped out of the way and I saw a

partial piece of the blade in his hand.

MR. SKELTON: We'd like to have this marked State's Exhibit No. 1 for identification purposes.

(STATE'S EXHIBIT NO. 1 MARKED [fol. 145] FOR IDENTIFICATION PURPOSES)

Q (By Mr. Skelton) I hand you what we have marked for identification purposes as State's Exhibit No. 1 and ask you to show the jury and me how he was holding the knife when you first noticed it.

A When I first noticed it in his hand with his finger over it?

Q Like that?

A Yes, sir.

Q You say that is when he --

A He was standing close, I believe, for the purpose of cutting Ray again, time after time after time. I remember at this trial in Vietnam they said all knife fighters hold their knife this way.

MR. DARNELL: Your Honor, he's not --

THE COURT: Testify as to what you saw and heard on this occasion.

A This knife -- I have had two years karate. The knife is held in this manner for two reasons, to keep it away from any eyewitnesses and in hopes your opponent won't know you are cutting him.

[fol. 146]

Q After you saw the knife, what did you do then?

A I pulled my gun out and said, "Look out, I think he's got a knife."

Q What did Ray do?

A He moved back out of the way.

Q Did he turn and face you?

A At that time I circled and got in between the two of them -- not between them, but facing the defendant so I could see Ray also.

Q What did you see when you saw Ray?

A He said he's cut all to pieces. "My God, he's already cut me."

Q Was this in his face?

A Cut him in the heart, his mid section was open, his intestines were actually hanging out, cut him behind and inside of the leg, cut him behind the neck, cut him under the neck, cut

cut him under the heart, cut him under the heart, there was a knife going straight in his chest; I'd consider that a man cut all to pieces.

Q After you saw this, what did you do with this defendant?

A Well, I put my gun in his direction, I told him to drop the knife.

[fol. 147]

Q What did he do?

A He stood there, looked at me a moment. I pulled my gun off safety and told him once more to drop the knife or I'd shoot him.

Q About how far away were you from the defendant when he dropped the knife?

A Approximately three feet.

Q After this defendant, Mr. Williams, dropped the knife, what did you do then?

A I kicked the knife out of the way and Ray said, "Stacy, get me an ambulance,

I'm getting weak." He was bleeding quite a bit, so I had to -- I made sure that he didn't pick the knife up again. He backed up toward the parking lot. I wanted to make sure he didn't pick up the knife again and come at my back. I didn't care so long as he left the scene or left me alone. I wanted to get Ray to the hospital.

Q Did you ever see the knife again after that?

A No.

Q Who was present out there when all this occurred?

A At the time we walked over I did recall seeing a man and a woman on their front porch; I believe two or three ladies and one man that I happen to know in the apartment.

[fol. 148]

Q And did you later see Mr. Neatherlin at the hospital?

A Yes, sir, I did.

MR. SKELTON: I will pass the witness.

CROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q You stated that when you left your apartment you took your gun with you, put it behind you, is that correct?

A That is correct.

Q Did you know Mr. Williams prior to that time?

A Never saw him before in my life.

Q And not knowing him, you go in and get a pistol to take with you. Is that a normal thing for you to do?

A I believe it would depend on the circumstances.

Q You walked behind Mr. Neatherlin for the entire [fol. 149] distance from the time you left his apartment until you got to where Mr. Williams was?

A To his right, right rear, maybe a step or half a step. I wasn't shadowed behind his image.

Q You said that this defendant put his hand on the neck of Mr. Neatherlin, is that correct?

A Well, it was in the general area of the neck. You are speaking of the actual location I was behind Ray? The only thing I was interested in was nobody else jumped in or if the defendant had somebody else with him I wanted to be sure nobody else jumped on Mr. Neatherlin. And he approached him in that area. I don't

know if it was his neck. I believe, if I remember right, it was.

Q But at that time that occurred there seemed to be no damage done to Mr. Neatherlin, is that correct?

A If it had of been, I couldn't have seen it from the rear.

Q Did Mr. Neatherlin seem to weave, stagger or --

A I don't believe I was judging his movements.

Q But immediately after this movement Mr. Neatherlin knocks the defendant down to the ground?

A That is correct.

[fol. 150]

Q And you stated he knocked him down several times?

A No, I didn't state that. I said he knocked him down once.

Q Did he knock him down several times?

A Yes, he did.

Q Did he hit him with his knee?

A Did Mr. --

Q Did Mr. Neatherlin hit him with his knee?

A No, he didn't.

Q Did he shove him or push him?

A At the time he was down on the ground?

Q At any time.

A Possibly. I don't understand what you mean by shoving or pushing. They was having a fight.

Q Well, in a fight there's normally shoving and pushing?

A I guess if you don't close your fist it is.

Q But they were scuffling a considerable period, moving around?

A That is correct.

Q How long a period of time did this scuffle last?

A I'd say roughly three to four minutes.

Q And you were standing behind Mr. Neatherlin during the entire scuffle?

[fol. 151]

A That is correct.

Q Had this pistol with you during that entire time?

A That is correct.

Q Was there any person there that could have seen that pistol?

A I don't believe so.

Q Did you state you had no shirt on?

A That is correct. I don't believe there was anybody behind me.

Q But it is possible somebody could have seen the pistol?

A Not anybody in front of me, no, sir.

Q Somebody behind you could?

A Possibly.

Q When did you remove that pistol?

A When I saw the knife.

Q Did you show that pistol at any time prior to then?

A No, sir, had no reason to.

Q But it was in the belt of your trousers?

A Yes, sir.

Q It was not covered by a shirt or anything?

A No, sir, I don't believe I had a shirt on. No, sir.

Q Were these gentlemen cursing each other or [fol. 152] fussing at each other?

A He'd called Mr. Neatherlin a vulgar name, yes, sir.

Q At the time Mr. Neatherlin stated he

had a check on him, is that when it occurred?

A I believe that is correct. Like I said, that was their business, that was no concern of mine and it was a personal argument as far as I felt.

Q But your going along was to see that Mr. Neatherlin was not hurt or injured?

A Well, at the time I went with Mr. Neatherlin I didn't even know why we were going. Once I realized there was a man to man argument going to take place, my only concern was nobody else jumped in on top of Mr. Neatherlin.

Q Is Mr. Neatherlin as large as this gentleman is?

A I'd say yes.

Q But you were concerned that no one would jump in on --

A That is correct. No one other than the gentleman sitting by you. I felt pretty sure he could handle himself against him.

Q So you must have been anticipating a fight then?

A At the time I saw a fight I didn't have to anticipate anything. I realized there was a [fol. 153] fight going on, yes.

Q But did you state you went along to see that no one else jumped on Mr. Neatherlin?

A I said I went along with Mr. Neatherlin. I didn't know why he asked me to go along with him. At that time they commenced fighting, all I wanted was for nobody to jump on them, to make it a fair fight.

Q No other persons interfered with this fight, it was between the two of them as far as this scuffle?

A That is correct.

Q Besides yourself stopping it?

A I stopped it, right.

MR. DARNELL: I have no other questions at this time.

[fol.154]

REDIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q Mr. Stacy, you stated you saw this defendant approach Mr. Neatherlin and slash or hit at his neck. You didn't notice Mr. Neatherlin stagger at that point?

A No, sir.

Q During this fight, did you ever notice him stagger or weave?

A No, sir. I wasn't really concerned about his body movements. I never once thought a man of his age would resort to a knife.

Q I'm assuming you didn't even know he had been cut?

A No, sir. I was behind and I couldn't see.

Q So there was nothing from the back of Mr. Neatherlin to indicate when he had got cut, right?

A Right. I didn't notice anything from his rear. I didn't notice any blood on his back or anything. I didn't know he was cut until I stopped the fight and Ray asked me to get him to an ambulance, he was weak at that time and he was weaving.

[fol.155]

Q This was after the fight?

A That's after I pulled the gun and stopped the fight.

MR. SKELTON: I have no further questions.

MR. DARNELL: I have no further questions.

[fol.156]

TESTIMONY OF F. G. BLACK,

WHEREUPON THE SAID F. G. BLACK WAS CALLED AS A WITNESS BY THE STATE AND HAVING FIRST BEEN DULY SWORN AND CAUTIONED ON HIS OATH, ASSUMED THE WITNESS STAND AND UPON EXAMINATION, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q State your name, please, sir.

A F. G. Black.

Q Where do you work?

A Police Officer, City of Houston.

Q How long have you been a police officer?

A Four years.

Q Do you work any special department or division?

A I work radio patrol, evening shift.

Q I presume that is the division that rides around and takes calls on com-

plaints and things of this nature, is that correct?

A Yes, sir.

[fol.157]

Q Were you working in that division back on the 20th day of May, 1970? Did you have an occasion to go out in the area of 7th Street where these apartments are located?

A Yes, sir.

Q What time did you receive the call to go out there?

A Approximately 8:00/8:30.

Q At nighttime?

A Yes, sir.

Q What, if anything, did you find when you arrived at the apartments?

A I found the complainant in this case, Mr. Neatherlin, I believe they were just fixing to take him to the doctor.

Q Do you recall where he was when you arrived?

A They were loading him in the car.

Q What did he look like?

A He had several lacerations on him.

Q Did you have an occasion to talk to him then?

A No, sir, I didn't talk to him.

Q After you saw Mr. Neatherlin, what did you do next?

A Took as much information as I could at the scene, from there we went to the hospital to make a follow-up investigation at the hospital.

[fol.158]

Q Did you find out what condition Mr. Neatherlin was in at the hospital?

A Well, when I got to the hospital he was being treated for several large lacerations, I presume. I'm not a doctor, but it looked to me like it was a critical condition.

Q After you left the hospital where did you go then?

A We went to the Admiral Motel on the corner of Airline and North Main.

Q I believe Airline runs into North Main at an angle there?

A Yes, sir. It's on the west side of North Main, at the intersection of North Main.

Q Why did you go there?

A We received information that possibly the suspect in this case was living there.

Q You are talking about Harry Lee Williams?

A Yes, sir.

Q This is information you got I assume talking to people at the scene?

A Yes, sir.

Q Did you arrest Harry Lee Williams at that address?

A Yes, sir, later.

[fol.159]

Q About how much later was it?

A Approximately an hour/hour and a half.

Q Who was working with you that night? Who was your partner?

A E. K. Syphrett.

Q Did you arrest this defendant out there at the motel?

A Yes, sir.

Q I hand you what we have marked for identification purposes as State's Exhibit No. 1 and ask you to examine it, please.

Have you ever seen that knife before?

A Yes, sir. It's the knife we took off Mr. Williams that night.

Q How do you know it's the same knife?

A Because I put my initials up on the front part of it, right here.

Q Those are your initials there?

A Yes, sir.

Q Where did you get the knife?

A Out of his pants' pocket.

Q Was this after you made the arrest?

A Yes, sir.

MR. SKELTON: At this time the [fol. 160] State would offer into evidence State's Exhibit No. 1.

MR. DARNELL: We have no objection, Your Honor.

THE COURT: All right, it will be received.

(STATE'S EXHIBIT NO. 1 ADMITTED INTO EVIDENCE.)

Q (By Mr. Skelton) Did you then place this defendant under arrest?

A Yes, sir.

MR. SKELTON: Pass the witness.

CROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q At the time you arrested this defendant what was his physical condition?

A I don't know exactly what you are talking about. Was he intoxicated or --

Q Was he sober?

A He had been drinking.

Q Was he bloody, beat up?

A No, sir.

Q Did he have any marks on his body that looked bruised or anything?

A I believe he had a mark on his arm. I believe there was a scratched place on his arm.

Q What about his knee?

A On his knees. What about his face or his teeth?

A No, sir.

Q Did he appear to have any loose

teeth or difficulty in his mouth?

A No, sir.

Q Did he give you any difficulty at the time you [fol.162] arrested him?

A No, sir, he did not.

Q Did he state that he had been in a fight?

A Yes, sir, he had.

Q And this was at the time of his arrest, was about what time, 10:00/ 10:30 at night?

A Approximately 10:00 o'clock.

Q 10:00 p.m. And you took him in and booked him?

A Yes, sir.

Q Did you find any weapon or instrument other than a pocket knife he had in his pocket?

A No, sir.

Q Were there any other persons at this apartment or place other than him?

A We arrested him outside. Now, I don't know whether there was anybody in the apartment or not.

Q He was not in an apartment?

A No, sir. He had just pulled his car into the parking lot.

MR. DARNELL: I have no other questions.

MR. SKELTON: I have no further questions.

THE COURT: Members of the jury, [fol.163] we are going to recess in taking testimony until 10:00 o'clock tomorrow morning. I have another docket that I will have to dispose of and I assume that I can dispose of it before 10:00 o'clock. Will you be back in the jury room at some time before 10:00 o'clock so we can proceed with the taking of testimony. We will stand recessed until 10:00 o'clock tomorrow morning in this case.

[fol.164]

MORNING SESSION
NOVEMBER 10, 1970
10:00 A.M.

THE COURT: Are you ready to proceed?

MR. SKELTON: Yes, Your Honor.

THE COURT: Bring the jury in.

(AT THIS TIME THE JURY IS RETURNED TO THE COURTROOM.)

[fol.165]

TESTIMONY OF JEAN OWENS,

WHEREUPON THE SAID JEAN OWENS WAS CALLED AS A WITNESS BY THE STATE AND, HAVING FIRST BEEN DULY SWORN AND CAUTIONED ON HER OATH, ASSUMED THE WITNESS STAND AND UPON EXAMINATION, TESTIFIED THE FOLLOWING.

DIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q State your name, please ma'am.

A Jean Owens

Q O-w-e-n-s?

A Yes, sir.

Q Are you married or single?

A Married.

Q Where do you work, Mrs. Owens?

A I'm a housewife.

Q Where does your husband work?

A He's a draftsman for Pona Engineers.

Q And where do you live, Mrs. Owens?

A 619 East 7th Street.

[fol.166]

Q What is the name of the apartments located there?

A Studemont.

Q Are those the ones that are owned by Mr. Ray Neatherlin?

A Yes, sir.

Q How long have you lived out there?

A Just about two years.

Q Were you living out there on the 20th day of May, 1970?

A Yes, sir.

Q I'd like to draw your attention to this diagram we have drawn on the board over here. Assuming north is down here toward me and that Oxford is running up this way, these are the apartments, this is the parking area out front, assuming this is Mr. Neatherlin's apartment, Mr. Stacy's apartment here, where would your apartment be?

A It's where the zeroes are drawn.

Q Kind of lopsided zero on the porch. Is that a porch or what?

A It's a porch. I live on the end apartment there.

Q Now, directing your attention to the 20th day of May, 1970, did you have an occasion to see [fol.167] this defendant, Mr. Williams?

A Yes, sir.

Q Is he the gentleman seated over here beside his attorney?

A Yes, sir.

Q What time of the day or night, if you recall, did you first see Mr. Williams?

A It was fifteen until 8:00 or around there.

Q Around a quarter to 8:00. Was it daylight or dark at this time?

A It was still daylight.

Q Where did you first notice Mr.

Williams?

A On that day?

Q Yes, ma'am.

A He drove up in a car and was coming up toward the walk.

Q Toward which way was he coming? Is there a parking area on the south side of the apartments?

A In the back of the apartments.

Q That's toward you on the blackboard?

A Yes, sir.

Q Which way was he walking, between the apartments, between where you live?

A Yes, sir. He was walking up from the parking lot.

Q Had you seen Mr. Williams before? [fol.168]

A Yes, sir.

Q Had he lived in the project?

A Yes, sir.

Q Did you know him by sight and name?

A Yes, sir.

Q You saw him walking up toward whose apartment?

A It was up toward mine and the woman that lived across from me.

Q Who lived across from you?

A Well, Kay Tolley.

Q Is she the lady living where the "X" is, across from your apartment?

A Yes, sir.

Q And where were you when you first noticed him?

A Well, I was sitting outside in a lawn chair, a friend and I.

Q Who was with you?

A Mrs. Williams.

Q Is that the one you commonly call "Gabby"?

A Yes, sir.

Q Does she live out there in the apartment area?

A Yes, sir.

Q After you noticed him what did he do when you first saw him walking up?

A He was going up toward a friend of his, Kay's [fol.169] apartment.

Q Kay Tolley's?

A Yes, sir. And she -- we told him she wasn't there, she was at Mr. Neatherlin's.

Q Have you seen him come to Kay's apartment before? Do you know what their relationship was?

A They were friends, that's all I know.

Q You or Gabby said she was at Mr. Neatherlin's apartment?

A Yes, sir.

Q What did he do after you told him that?

A He sat down with us after and started talking. He said he'd wait until she came back.

Q Where did y'all sit?

A Right in front of my apartment.

Q Isn't there a sidewalk in front of the two buildings?

A Yes, sir. I was on my side.

Q Was he over there with you?

A Yes, sir.

Q How long did he sit over there?

A I'd say around fifteen or twenty minutes.

Q Did you talk or what?

A Just common talk.

Q Did you see Mr. Neatherlin later on?

[fol.170]

A Yes, sir. I guess in about fifteen or twenty minutes Mr. Neatherlin and Kay came around from Mr. Neatherlin's house.

Q Was Kay with Mr. Neatherlin?

A Yes, sir.

Q Was she walking in front or beside him?

A I think it was in front of him.

Q Where did you first notice Mr. Neatherlin?

A I seen him come around the side of the building.

Q Is that where that line is drawn?

A Yes, sir.

Q What did this defendant do when Mr. Neatherlin came around the building.

A He sat there and acted sort of nervous.

Q What did you mean "sort of nervous"?

A Well, just nervous. I noticed he put his right hand in his right pocket.

Q Was this as he saw Mr. Neatherlin?

A After he had seen him.

Q Had Mr. Neatherlin said anything to Mr. Williams when he put his right hand in his pocket?

A No, sir.

Q They were still on your side of the yard?

A Yes, sir.

Q Which hand did he put in his right-hand pocket?

[fol.171]

A He put his right, and the left, he was sort of fooling with his pockets.

Q What did Mr. Williams next do?

A When Mr. Neatherlin got in front of Kay's apartment, Mr. Williams walked towards Mr. Neatherlin.

Q Did he still have his hand in his pocket at this time?

A No, he took it out.

Q How was he holding his hand if you recall?

A Like this.

Q Was it cupped or what?

A It was cupped.

Q He walked toward Mr. Neatherlin. Where did he meet him, on the sidewalk or where?

A It was on the sidewalk, the one that leads up to the apartments on the other side, not my side.

Q But he walked over toward Mr. Neatherlin?

A Yes, sir.

Q What next occurred after he met Mr. Neatherlin by the sidewalk?

A They said hello to each other first.

Q What happened next?

A Mr. Neatherlin said, "What happened about the rent?" And Mr. Williams said, "I don't own you [fol.172] any rent." He said, "Yes, you do." When he said it the second time Mr. Williams got mad and sort of pushed at him.

Q Did you see what area Mr. Williams pushed at Mr. Neatherlin, what portion of the body?

A He pushed with his right hand up toward Mr. Neatherlin's shoulder.

Q Was this the first contact made by these two people?

A Yes, sir.

Q What happened next?

A Then they started fighting.

Q In your opinion who initiated the fight?

A Mr. Williams.

Q And did you ever see a knife in this defendant's hand?

A Well, I didn't see it at first, because it looked like he had it hid with one finger stuck out when they were fighting. When the man came around the building --

Q You said, "the man"?

A Bill Stacy.

Q Did you see Bill Stacy with Mr. Neatherlin when Mr. Neatherlin came around the building?

A No. He didn't come out until the fight was half [fol.173] over.

Q Was then when you first saw the knife?

A Yes, sir.

Q But you did see him put his hand in his pocket prior to going over there to Mr. Neatherlin?

A Yes, sir.

Q And bringing it out?

A Yes, sir.

CROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q Mrs. Owens, what kind of clothing did the defendant have on that day?

A Mr. Williams?

Q Yes, ma'am.

A He had a -- I think it was a dress-suit, dress pants and a dress shirt, just dress clothes if I remember.

Q White shirt?

[fol.174]

A I don't really remember, could have

been.

Q What kind of clothing did Mr. Neatherlin have on?

A He just had on a pair of khakis. He didn't even have a shirt on.

Q Khaki pants?

A Yes.

Q What kind of clothing did Mr. Stacy have on?

A Mr. Stacy -- I don't really remember. I think just ordinary clothes. I don't think they were dress clothes, just blue jeans I believe and a shirt.

Q Short-sleeved shirt, long-sleeved shirt?

A Short, I believe, I'm not real positive.

Q Well you seem to be pretty positive that this man put both hands in his pants' pocket, that you observed that?

A Well, he was sitting right next to me.

Q Well, when Mr. Stacy came around and you first observed him, how long had Mr. Neatherlin been there?

A A couple of minutes. They'd been fighting I'd say, well, at least three or four minutes.

Q The defendant, Mr. Williams, and Mr. Neatherlin had been fighting three or four minutes when Mr. Stacy arrived?

[fol.175]

A Yes, sir. He came around the building.

Q You said you observed this defendant push Mr. Neatherlin?

A Yes, sir.

Q What kind of push was it, a hard push?

A No, just a shove. He just shoved him up at his shoulder.

Q Sort of pushing him away from him?

A No. It was really a mean shove. He looked like he was really mad.

Q Did he say anything to indicate he was angry?

A He said he didn't owe anything.

Q He had been accused of owing money, is that correct?

A Yes.

Q What were the words by Mr. Neatherlin at the time of this shove of just immediately prior to the time of the shove in regard to owing him money?

A After he shoved him I believe that's all the words that was said.

Q He told Mr. Williams, this defendant, that he owed him money?

A He said, "I came to see about the rent" and Mr. Williams said he didn't owe any rent.

[fol.176]

Q Did Mr. Neatherlin strike this man and knock him down?

A After they had started fighting. After he had pushed him, well, they both hit each other quite a bit and he knocked Mr. Williams down.

Q Did Mr. Williams get up?

A Yes, sir.

Q Did he stand erect?

A Well, he was sort of slumped. Well, he was standing --

Q Was he on his knee?

A No.

Q He did not raise completely erect?

A Well, he stood up. Well, when he fell down, he got up on his knees and he got back up.

Q Was he being struck all the time?

A No, sir.

Q Was he being struck repeated blows?

A Well, when he knocked him down, he hit him and then when Mr. Williams jumped up, he was hitting Mr. Neatherlin, too, and he always kept doing this.

Q How many times did Mr. Neatherlin strike this defendant? A number of times? Many times?

A Well, at least five or six. I'm not real [fol.177] positive. I didn't count them.

Q As I understand, this fight lasted three or four minutes, and in three/four minutes in a fight there can be lots of activity, just constant shoving, pushing, hitting, of that nature, is that right?

A Yes, sir.

Q So it was a fight that continued?

A It continued until Mr. Stacy hollered.

Q Did you ever see this defendant knock Mr. Neatherlin down?

A No. He didn't knock him down.

Q You stated that this defendant had lived in this apartment project, is that correct?

A Yes, sir.

Q How long did he live there to your best recollection?

A I think it was a couple of months. It might have been two months, I'm not real sure. He didn't live there too long.

Q And you had seen him on numerous occasions?

A Yes, sir.

Q Other than yourself, who were the people that saw this fight?

A My friend Mrs. Williams, we were both sitting out [fol.178] there outside. In fact, there wasn't anybody else out there at the time.

Q It was just you, Mrs. Williams, Mr. Neatherlin and Mr. Williams?

A Yes, sir.

Q And that is the only people that you observed?

A Yes, and Bill.

Q At a later time Mr. Stacy, three or

four minutes after this was going on, he arrived?

A Yes, sir.

Q What did Mr. Stacy say or do when he came up?

A Well, he came around the building and he hollered he said, "Ray, he's got a knife", and he hollered "Drop the knife". He pulled the gun out of the back of his pants. It was in the back of his pants. He just held it and he said, "Drop the knife" and Mr. Williams dropped the knife, and then he picked the stuff up and took off running.

Q Were the police called immediately after that?

A I don't even know who called the police. I know we didn't. My friend and I didn't. I don't know who called them.

Q Did you notice an officer arrive after this had happened?

[fol.179]

A No. Just the ambulance came up and Mr. Neatherlin was already gone to the hospital, a friend had took him. The officer might have went to the manager's apartment. I didn't see him come over to where I lived.

Q How did Mr. Neatherlin leave this scene, did someone assist him?

A Bill helped him. He put his arm around him and sort of helped him walk.

Q Bill Stacy?

A Yes, sir, and they left together.

Q As you were observing this fight, in your opinion who was getting the best of it as far as the pushing and shoving?

A Well, both of them were really.

Q They were fighting?

A Well, they were really fighting, I mean hitting each other at the time. I didn't know he was slicing him until I seen the knife.

Q Did you see any loose teeth around there?

A No, sir.

Q Did you observe this man's mouth being bashed in?

A I seen him hit him on the side one time and right here one time, but I didn't see any teeth.

[fol.180]

MR. DARNELL: I have no more questions.

MR. SKELTON: I have no further questions.

We call Mrs. Williams.

[fol. 181]

TESTIMONY OF GABRIEL JULIA WILLIAMS

WHEREUPON THE SAID GABRIEL JULIA WILLIAMS WAS CALLED AS A WITNESS BY THE STATE AND, HAVING FIRST BEEN DULY SWORN AND CAUTIONED ON HER OATH, ASSUMED THE WITNESS STAND AND UPON EXAMINATION, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q State your name, please ma'am.

A Gabriel Julia Williams.

Q Where do you live?

A 5716 Pear.

Q Who do you live with?

A My husband.

Q How long have you lived over there?

A A month and a half.

Q I believe you were born in Germany?

A Yes.

Q Are you a war bride, or was your husband in the service when you met?

[fol. 182]

A Yes.

Q How long have you been married?

A Two years.

Q And where does your husband work?

A Southwest Dry Wall.

Q Have you ever testified in an American court before?

A No.

Q Directing your attention back to May 20, 1970, where were you and your husband living then?

A 619 East 7th Street, Apartment 8.

Q What is the name of those apartments?

A Studemont Apartments.

Q Do you know this defendant, Mr. Williams, sitting over beside his lawyer?

A Yes.

Q How long have you known him?

A I guess two months. I don't know for sure.

Q Are you talking about prior to May 20th when this fight occurred?

A Yes, sir.

Q How did you happen to know him? Was it because he lived there?

A Yes. He lived next door to me.

Q Where did you live in the apartment complex. There

[fol. 183]

is a drawing over here on the board. Let me show you what all these X's mean. Mr. Neatherlin lived here, Mr. Stacy, Mrs. Tolley. Where did you live here?

A I lived on the other corner.

Q Here?

A Right there.

Q You lived over in this area?

A Yes.

Q And did you have an occasion on the day of the fight on May 20th to see Mr. Williams on that day?

A Yes.

Q Where were you when you first saw the defendant, Mr. Williams?

A I was with Mrs. Owens on her front porch.

Q Would this be over in this area here?

A Yes.

Q Do you recall about what time it was that you first saw Mr. Williams?

A I don't remember. Must have been about 8:00.

Q Around 8:00?

A Yes.

Q And you say you were with Mrs. Owens in her front yard?

[fol. 184]

A Yes.

Q Where did you first notice Mr.

Williams, where was he?

A Well, he came around the building from the car and was going over to that lady's house.

Q You are talking about Mrs. Tolley's?

A Yes, sir.

Q And did he knock on the door, or what did he do?

A No. He was fixing to knock on the door and we told him that she was over at Mr. Neatherlin's office.

Q What happened after you told him that, what next occurred?

A He sat down with us and he talked, you know.

Q And how long did he talk with you before Mr. Neatherlin and Mrs. Tolley came back?

A About ten minutes.

Q Where did you first notice Mr. Neatherlin?

A When he came walking -- he came

(Misnumbered page -- Testimony continues on page 145).

walking around the building there.

Q Is that where that little line is drawn?

A Yes.

Q Now, when Mr. Williams first noticed Mr. Neatherlin, what was the first thing that Mr. Williams did?

[fol. 185]

A Well, he got real nervous and pulled up his britches.

Q Now, prior to that time he had been sitting or what?

A No. He was sitting and he got real nervous when he seen Mr. Neatherlin walking around the corner and he pulled up his britches and reached his hand in his pocket.

Q Do you recall which hand he put in which pocket?

A His right hand.

Q Was this before Mr. Neatherlin ever said anything to him?

A Yes.

Q Was he still standing in Mrs. Owens' front yard when he put his hand in his front pocket?

A Yes.

Q After he put his right hand in his right pants pocket, what did Mr. Williams next do?

A He walked up to Mr. Neatherlin -- he was standing on the corner -- he walked up to him and he said, "Hello" and then Mr. Neatherlin asked him about his rent money he owed him and Mr. Williams said he didn't owe him no rent, then Mr. Neatherlin said, "What about the money you owe me for cleaning up the apartment?"

[fol. 186]

He said he didn't owe him no money and he pushed him on his chest.

Q Who pushed who?

A Mr. Williams pushed Mr. Neatherlin on his chest.

Q Right --

A Right up in here.

Q At this time was Mr. Williams' back to you, or were they facing you or sideways?

A Mr. Williams was facing me and Mr. Neatherlin was in back of me.

Q You saw Williams pushing around the chest?

A Yes.

Q I suppose a fight started after that?

A Yes.

Q When did you first notice the knife in Mr. Williams' hand?

A Well, I didn't notice it at first. I was wondering how come it looked like he was pushing Mr. Neatherlin all the time.

Q Could you see how he was holding

his hand?

A Real funny, somehow like this and it looked like he was pushing him all the time. And then, when all of a sudden Mr. Stacy, he said "He's got a knife" and then I seen it, you know,

[fol. 187]

he dropped it then.

Q Do you recall which hand he had it in?

A In his right hand.

Q Did you see him when he put it in his pocket then?

A Yes.

Q Did you see Mr. Neatherlin after the fight, he was cut?

A Yes. He hold his stomach and he said, "Call an ambulance" and he walked off and blood was all over the place.

MR. SKELTON: I will pass the witness.

[fol. 188]

CROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q What clothing did Mr. Williams have on this date?

A What clothing?

Q Yes, ma'am. How was he dressed?

A I remember he had an old hat on -- he's got some old beige hat he always had on -- and a dark suit. I don't recall the color, but I remember it was dark.

Q He had on a suit?

A Yes.

Q Coat and pants?

A Yes.

Q What clothing did Mr. Neatherlin have on on that date?

A All he had on was a pair of slacks.

He didn't have no shirt on.

Q Did you see Mr. Stacy at the time of the fight?

A Yes.

Q What clothing did he have on?

A I don't remember. Oh, yes, he had on some blue

[fol. 189]

jeans. I remember that he had some blue jeans on, but I don't know what shirt.

Q You don't recall what type shirt it was?

A No.

Q You said you saw Mr. Williams push on Mr. Neatherlin?

A Yes.

Q And Mr. Williams was facing in your direction, facing toward you at that time?

A Yes.

Q How far did he push -- how hard did

he push him, real, real hard, just a little bit?

A Well, he pushed him pretty hard, but he didn't fell over.

Q In other words, Mr. Neatherlin just remained erect?

A Yes.

Q What did Mr. Neatherlin do after that?

A I think he hit him on his head or right here, I don't remember.

Q Did Mr. Williams become knocked down?

A No. I don't remember.

Q During this fight or this period of time, how long did this fight last?

A Maybe three minutes, maybe five.

[fol. 190]

Q There was a lot of activity, it lasted some period of time?

A Yes.

Q When Mr. Neatherlin walked up to

where you and Mr. Williams and Mrs. Owens were, who was with Mr. Neatherlin at that time, anyone?

A Well, that lady, I don't know her name, and Bill Stacy, he was with him. He walked behind him.

Q There was a lady?

A Yes.

Q Was she in front, to the side, or where was she in regard to Mr. Neatherlin?

A She was in front of Mr. Neatherlin, you know, more to the side, but she was a little bit before Mr. Neatherlin.

Q She was the first person that appeared?

A Yes, sir.

Q And Mr. Neatherlin right behind with Mr. Stacy?

A Yes.

Q And Mr. Neatherlin had a pair of

khaki pants or some kind of slacks, no shirt?

A No.

Q The first words, his conversation was directed to Mr. Williams in regard to some rent money?

[fol. 191]

A No. Mr. Williams said "Hello" and Mr. Neatherlin said, "Hello", then Mr. Neatherlin asked him about the rent.

Q How long did Mr. Williams live at this complex to the best of your knowledge?

A I don't know, maybe three months.

Q At what point did Mr. Stacy become involved in this fight?

A Well, he -- apparently he seen the knife and he pulled out a gun and he said, "Drop the knife" and that's when, you know, that's when it stopped.

Q That's after this fight had pursued from three to five minutes?

A Yes.

Q But up until that time he did not interfere in any way?

A No.

Q Mr. Neatherlin had his back toward you?

A Yes. He was kind of -- you know, he was just like he was in front of me, like that, that was Mr. Neatherlin.

Q Is it possible he could have kicked this man prior to the time you saw him swing at Mr. Neatherlin?

[fol. 192]

A Pardon me?

Q Is it possible that Mr. Neatherlin could have kicked Mr. Williams with his knee prior to the time that Mr. Williams struck at Mr. Neatherlin that you could not have seen?

A No. I would have seen it.

Q How far were you from Mr. Neatherlin?

A I was right from here to right here. I don't know how many feet it is. I don't know the measurements over here. It was real close.

Q To me?

A No, wasn't that far away.

Q But you saw Mr. Neatherlin make no move?

A No.

Q But he could have done it and you not observed it, it's possible.

A Could be possible, but I would have seen it I'm sure.

Q Did Mr. Williams ever become knocked down? In other words, go down to his knees from a blow in this fight?

A No.

Q He was standing erect at all times?

A Yes.

[fol. 193]

Q For the entire three to five minutes,

whatever?

A Yes.

Q Did anyone try to stop this fight before Mr. Stacy?

A No. Was nobody around except women.

Q How long did you live at these apartments after the fight, before you moved?

A Well, I moved a month and a half ago from there.

Q After this fight was over were a bunch of people talking about it, discussing it?

A Well, I would say so.

Q How many people have you talked to about this fight that you can recall?

A I talked to my husband about it.

Q Is that the only person?

A Well, and then Mrs. Owens, we had talked about it and that's all.

Q You said you saw him reach into his

pocket, his hand in his pocket just before the fight?

A Yes.

Q How many people have you discussed that with prior to today?

A Only with my husband.

Q Have you ever discussed this with Mrs. Owens

[fol. 194]

that you can recall?

A I might have did, I don't know. I don't remember.

Q But this defendant seemed nervous when Mr. Neatherlin arrived?

A Yes.

Q Is Mr. Neatherlin a much larger man than this defendant?

A I think he is.

Q He seemed more robust, physically stronger?

A Yes.

Q But you do not recall that this

man was knocked down at any time in that fight?

A No, I don't remember.

Q You were very close during the entire activity of three to five minutes?

A Yes.

MR. DARNELL: I have no other questions.

MR. SKELTON: I have no further questions.

We will recall Officer Black for a few questions, Your Honor.

[fol. 195]

FURTHER TESTIMONY OF F.G. BLACK (RECALLED),

WHEREUPON THE SAID F. G. BLACK, HAVING PREVIOUSLY BEEN DULY SWORN AND CAUTIONED ON HIS OATH, WAS RECALLED AS A WITNESS AND UPON EXAMINATION, CONTINUED TO TESTIFY AS

FOLLOWS:

DIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q You are the same F. G. Black that's previously testified in this case, are you not?

A Yes, sir.

Q You were the arresting officer, you and your partner, I believe you testified, is that correct?

A Yes, sir, that is correct.

Q Would you describe what Mr. Williams' physical condition was in relation to his face, was he bruised, his lips cut, how did he look?

A Not that I can recall. Like I stated yesterday, I believe he had some scratches on his arm and his knees looked like he had abrasions where he

[fol. 196]

might have fell on the gravel.

Q Did you notice anything about any teeth being missing?

A No, sir.

MR. SKELTON: Could I have this marked?

(STATE'S EXHIBIT NO. 2 MARKED FOR IDENTIFICATION PURPOSES).

Q (By Mr. Skelton) I hand you what we have marked State's Exhibit No. 2 and ask you to look at that, please, sir. Does that truly and accurately depict the way Mr. Williams looked on the night you arrested him?

A Yes, sir, it does.

MR. SKELTON: Your Honor, could we submit this to counsel? We'd

like to offer it into evidence. Any objection?

MR. DARNELL: No.

MR. SKELTON: Your Honor, we submit this to the jury at this time.

THE COURT: It will be received.

[fol. 197]

(STATE'S EXHIBIT NO. 2 IS RECEIVED INTO EVIDENCE.)

MR. SKELTON: Pass the witness.

CROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q Officer Black, about what time did you arrest the defendant?

A It was approximately 10:00 p.m.

Q 10:00 p.m.?

A Yes, sir.

Q And from the information you received this fight had occurred a couple of hours prior to that?

A Yes, it had.

Q You took him immediately to the police station?

A That is correct.

[fol. 198]

A Approximately when was that picture taken?

A I have no idea.

Q It was taken sometime later?

A Yes. After he was booked they run through ID.

Q When was the last time you saw the defendant?

A I'd say approximately 10:45/11:00 p.m.

Q So a picture would have been taken sometime after that?

A Yes, sir.

MR. DARNELL: I have no other questions.

[fol. 199]

REDIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q Officer, you examined State's Exhibit No. 2. Was his mouth the same as it was in State's Exhibit No. 2 when you arrested him?

A Yes, sir.

Q No swelling about his mouth at all?

A No, sir.

MR. SKELTON: I have no further questions.

We recall Mr. Neatherlin for a few questions, Your Honor.

[fol. 200]

FURTHER TESTIMONY OF RAY NEATHERLIN

(RECALLED)

WHEREUPON THE SAID RAY NEATHERLIN, HAVING PREVIOUSLY BEEN DULY SWORN AND CAUTIONED ON HIS OATH, WAS RECALLED AS A WITNESS AND UPON EXAMINATION, CONTINUED TO TESTIFY AS FOLLOWS:

DIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q You are the same Ray Neatherlin that previously testified in this case?

A Yes, sir.

Q I believe you previously testified that Mrs. Tolley was over at your house paying the rent when you and her went over to see what Williams wanted?

A Yes, sir.

Q When you left the house with Mrs. Tolley, what was your purpose for going?

A She made the statement that he just come over to cause trouble and I went over there for that purpose and also the checks.

Q Was it for both reasons?

[fol. 201]

A Yes, sir.

Q Now, when you had the confrontation around the sidewalk before this started, did you ask this defendant to leave your property?

A Yes, sir. I told him I wanted him to get out and never come back.

Q When did you tell him this, before the fight?

A Yes, sir.

Q How much longer after that was it before he struck you in the neck?

A I don't know, just a minute.

Q But you did ask him to leave?

A Yes, sir.

MR. SKELTON: Pass the

witness.

[fol. 202]

CROSS EXAMINATION

QUESTIONS BY MR. DARNELL:

Q What was the first words that you said to this defendant when you arrived to where he was?

A Sir, I don't remember the exact first words.

Q Well, did you say "Hello" or something like that?

A I couldn't tell you.

Q Are you testifying now that the first thing you said was for him to leave?

A No, sir, I'm not saying that that's the first word.

Q Well, I understood from his question, I may be incorrect, but that was the first thing you said.

A Well, it's not the first thing. It

might have been the first thing, I don't remember the exact words that I said. Before the fight started I did ask him to leave.

Q And you also discussed in regards to some checks?

A Yes, sir.

[fol. 203]

Q And he denied that he owed the money on the checks?

A That is correct.

Q When you left your apartment to go to where Mr. Williams and the other people were, Mr. Bill Stacy left and went with you?

A No, sir. I left with Mrs. Tolley.

Q Where did you first see Bill Stacy after you --

A When he hollered at me, told me he had a knife.

Q Well, you walked from your apartment to where Mr. Williams was, the

the only person with you was Mrs. Tolley?

A That is correct.

Q Where was she walking in relation to yourself?

A I believe she was on my right.

Q Walking right close to you?

A Yes, sir.

Q And when you arrived at where Mr. Williams was, it was just you and Mrs. Tolley?

A What do you mean about that now?

Q The people that were there?

A The people that were there -- no, sir, there was Mrs. Williams and Mrs. Owens, and I don't know, there was maybe two or three kids or something around there, I don't remember just how

[fol. 204]

many, wasn't even looking at them.

Q How long did this last from the

time it started until it was over to the best of your recollection?

A Oh, I wouldn't say over two or three minutes probably.

Q But during that time it was a continuous fight?

A Yes, sir, only when I knocked him down --

Q You say you knocked him down?

A Then I stood back and he'd get back up and run at me again.

Q When he was knocked down, what was the defendant's position at that time? Was he on his knees, on the ground or --

A He was just on the ground, that's all I know.

Q He was not standing erect, he was down?

A When I knocked him down, how could he be standing?

Q That's what I'm asking. Do you re-

call how many times he was knocked down, how many times he went down?

A I think about three times probably.

Q Do you recall what clothing the defendant had on at that time?

[fol. 205]

A No, sir. I believe he had on a suit.

Q Pants and coat that match?

A Yes, sir.

Q Was it a light color, medium color, dark color?

A I couldn't say. I don't remember It kind of stands out that it might have been a brown suit. I have seen him with a brown suit. That might have been what he had on. I remember he had on a suit of clothes.

Q Prior to this fight, how long had Mr. Williams been moved from the apartment complex?

A I don't know exactly. I would have

to get my books to see.

Q Well, approximately. A couple of months, three months?

A Something like that I'd say.

Q When you went up to him you wanted to collect the money on those checks?

A That is correct.

Q Had you ever taken any legal action to collect those?

A No, sir.

Q He was not the maker of those checks?

A No, sir.

Q After the fight was over and you left from this

[fol. 206]

scene, how did you leave, by ambulance, automobile or --

A By car.

Q By car?

A One of the tenants there in the apartment project took me to the

hospital.

Q Mr. Stacy took you to the hospital?

A No, sir.

Q Another tenant?

A Another tenant that lived there.

Q Did you see Mr. Stacy point a pistol at this defendant?

A No, sir.

Q And did you see Mr. Stacy with the pistol at any time after?

A I didn't see the pistol. He had a pistol, I didn't see it.

MR. DARNELL: I have no other questions.

[fol. 207]

REDIRECT EXAMINATION

QUESTIONS BY MR. SKELTON:

Q I believe you testified yesterday, did you not, that Mrs. Tolley has since moved from the state and

either resides in Kansas or Illinois, is that correct?

A That is correct.

MR. SKELTON: No further questions.

Your Honor, at this point the State would rest.

MR. DARNELL: Your Honor, the defense will call no witnesses at this time.

THE COURT: The defense rests?

MR. DARNELL: Yes, sir.

THE COURT: Retire the jury, Mr. Defoy.

Will you come to the chambers and we will prepare the charge.

[fol. 234]

CAUSE NO. 151,738

THE STATE OF TEXAS	X	IN THE DISTRICT
	X	COURT OF HARRIS
	X	COUNTY, TEXAS
VS.	X	177TH JUDICIAL
	X	DISTRICT
HARRY LEE WILLIAMS	X	NOVEMBER TERM, A.D.
	X	1970

MOTION FOR A NEW TRIAL

[fols.235-238] * * *

[fol.239]

* * * * *

THE COURT: All of this may or may not be the facts. The jury has resolved the issue against the defendant. The only point that your motion raises that I can see is the possibility that the Court may have been in error in not submitting self-defense of what you now say the defendant is willing to testify to, and I cannot submit the issue or facts to a jury that's already heard the case. There is no action on the part of the prosecution or the Court in preventing the defendant from raising such an issue during the trial, so I [fol.240] think that your motion is without merit, for that reason I'm going to deny the motion. The motion, therefore, is overruled unless you have some other evidence that you wish to offer in connection --

* * * * *

WILLIAMS' EXHIBIT NO. 2

WRITTEN DEPOSITION OF:

MR. CLARENCE KENDALL (taken July 3, 1973)

MR. CLARENCE KENDALL

after having first been duly sworn, in answer to the direct questions propounded to him states as follows:

DIRECT QUESTIONS

1. Were you counsel on November 24, 1970 for Vernon T. Cobb?

A. Yes.

2. On November 24, 1970 did you see Vernon T. Cobb in Judge Love's Court?

A. Yes.

3. Did Vernon T. Cobb have jail clothes (a white garment with "Jail" printed on it) on?

A. Yes. Either that or he had on a white T-shirt and blue jeans along with shower type shoes issued by the jail. I can't remember which.

4. Did Vernon T. Cobb appear before the jury trying his case in said jail clothes?

A. Yes, if there was a jury trial he appeared in his jail clothes.

s/ Clarence Kendall
MR. CLARENCE KENDALL

WILLIAMS' EXHIBIT NO. 3

WRITTEN DEPOSITION OF:

MR. MARION (SANDY) SANFORD
(taken July 3, 1973)

MR. MARION (SANDY) SANFORD

after having first been duly sworn, in answer to the direct questions propounded to him states as follows:

DIRECT QUESTIONS

1. Were you counsel on November 16, 1970 for Forrest Randolph Smith?

A. Yes.

2. On November 16, 1970 did you see Forrest Randolph Smith in Judge Love's Court?

A. Yes.

3. Did Forrest Randolph Smith have jail clothes (a white garment with "Jail" printed on it) on?

A. Yes. He did and also the toe grip bathrobe type slippers.

4. Did Forrect Randolph Smith appear before the jury trying his case in said jail clothes?

A. Yes.

s/ Marion Sanford
MR. MARION (SANDY) SANFORD

WILLIAMS' EXHIBIT NO. 4

WRITTEN DEPOSITION OF:

MR. J. WEIR (taken July 3, 1973)

MR. J. WEIR

after having first been duly sworn, in answer to the direct questions propounded to him states as follows:

DIRECT QUESTIONS

1. Were you counsel on November 23, 1970 for John Clyde Bradley?

A. Yes.

2. On November 23, 1970 did you see John Clyde Bradley in Judge Love's Court?

A. Yes.

3. Did John Clyde Bradley have jail clothes (a white garment with "Jail" printed on it) on?

A. Yes. He did to the best of my recognition.

4. Did John Clyde Bradley appear before the jury trying his case in said jail clothes?

A. Yes. He did to the best of my recognition.

s/ James Weir
MR. J. WEIR

WILLIAMS' EXHIBIT NO. 5

WRITTEN DEPOSITION OF:

MR. E. WAYNE WALKER (taken July 3, 1973)

MR. E. WAYNE WALKER

after having first been duly sworn, in answer to the direct questions propounded to him states as follows:

DIRECT QUESTIONS

1. Were you counsel on October 14, 1970 for Luther Rollins?

A. Yes.

2. On October 14, 1970 did you see Luther Rollins in Judge Love's Court?

A. Yes.

3. Did Luther Rollins have jail clothes (a white garment with "Jail" printed on it) on?

A. Yes.

4. Did Luther Rollins appear before the jury trying his case in said jail clothes?

A. We never tried the case but he was in the jail clothes when the jury was voir dired. The case was dismissed.

s/ E. Wayne Walker
MR. E. WAYNE WALKER

WILLIAMS' EXHIBIT NO. 6

WRITTEN DEPOSITION OF:

MR. C. H. (NEAL) DUVALL
(taken July 3, 1973)

MR. C. H. (NEAL) DUVALL

after having first been duly sworn, in answer to the direct questions propounded to him states as follows:

DIRECT QUESTIONS

1. Were you counsel on October 30, 1970 for Eugene Joe Hill?

A. Yes.

2. On October 30, 1970 did you see Eugene Joe Hill in Judge Love's Court?

A. Yes.

3. Did Eugene Joe Hill have on jail clothes (A white garment with "Jail" printed on it) on?

A. He probably was; he was a "jail case", but it has been so long. I don't remember exactly.

4. Did Eugene Joe Hill appear before the jury trying his case in said jail clothes?

A. He probably did; he was a jail case.

s/ C. H. (Neal) Duvall
MR. C.H. (NEAL) DUVALL

ESTELLE'S EXHIBIT NO. 1

(Certificate of State Court Trial Judge)

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

I, Miron A. Love, Judge of the 177th Judicial District Court of Harris County, Texas, hereby certify that I was presiding judge in Cause No. 151738, entitled The State of Texas v. Harry Lee Williams, which trial commenced on November 9, 1970, and at which the defendant was tried and convicted for the offense of assault with intent to murder with malice aforethought. The defendant was found guilty by the jury and was assessed by the court as punishment confinement in the state penitentiary for ten years.

I certify that as District Judge presiding at the trial of said above mentioned cause in the 177th Judicial District Court of Harris County, Texas, I have reviewed the record in this cause, and I have in-

dependent recollection of the events and evidence, and of the issues raised in this trial. I have been asked about my policy in regard to defendants who were tried in jail clothing. I can state unequivocably that if at any time a defendant or his attorney made known to me either before or during the trial that he did not wish to be tried in jail clothing, I would have granted his request, and permitted him time to obtain civilian clothing to wear at his trial.

I have been Judge of the 177th District Court of Harris County, Texas, since December 1, 1958, and on numerous occasions during that period of time I have granted requests by defendants or their attorneys for them to be allowed to obtain civilian clothes to wear at their trials. I have never compelled a defendant to go to trial in jail clothes, and on every occasion when a defendant or his attorney re-

quested that he be allowed to wear civilian clothes at his trial I have granted the request.

In the above trial of defendant Williams in Cause No. 128047, no objection was ever raised by defendant or his attorney regarding the fact that the defendant was being tried in jail clothing. At no time before or during said trial did either the defendant or his attorney of record request or make known to me that either of them wished that defendant be tried in civilian clothing. Had such request been made by either defendant or his attorney, I would have granted such request and permitted the defendant to be tried in civilian clothing at his trial.

s/ Miron A. Love
MIRON A. LOVE, JUDGE
177th Judicial District
Court, Harris county,
Texas

STATE OF TEXAS, COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared Miron A. Love, Judge of the 177th Judicial District Court of Harris County, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me acknowledges that the statements contained in the foregoing instrument are true and correct.

Given under my hand and seal of office this 6th day of March, 1973.

s/ Georgia Sue Massengale
Notary Public in and for
Harris County, Texas

ESTELLE'S EXHIBIT NO. 2

STATE OF TEXAS X
X
COUNTY OF HARRIS X

AFFIDAVIT

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared Marion Sanford, known to be a competent and credible person and over the age of twenty-one (21) years, and who, after being duly sworn did depose and say as follows:

My name is Marion Sanford, Jr., I am a practicing attorney licensed to practice law in the State of Texas. I served as court appointed counsel for one Forrest Randolph Smith, who was the defendant in a criminal case tried in Harris County District Court before Judge Myron A. Love on November 16, 1970. My recollection is that Mr. Smith was tried while wearing jail clothing. Although I am not positively certain about the matter, I believe

that I briefly discussed the fact that the defendant was being tried in jail clothing with Mr. Michael Ramsey, who was serving as co-counsel with me on the case. I do not distinctly recall our reasoning on this matter, however, we did not raise an objection nor make a request that the defendant be tried in civilian clothing in that case. However, I will state that in the few criminal cases which I have participated in, it is my opinion that the wearing of jail clothing by the defendant does not make a significant difference before the jury.

s/ Marion Sanford, Jr.
Marion Sanford, Jr.

The above and foregoing Affidavit was sworn to and subscribed before me by Marion Sanford, Jr. on the 3 day of July, 1973, to certify which, witness my hand and seal of office.

s/ Barbara Stephenson
Notary Public, Harris
County, Texas

ESTELLE'S EXHIBIT NO. 3

STATE OF TEXAS X
X
COUNTY OF HARRIS X

AFFIDAVIT

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared Clarence Kendall, known to be a competent and credible person and over the age of twenty-one (21) years, and who, after being duly sworn did depose and say as follows:

My name is Clarence Kendall. I am over 21 years of age and licensed to practice law in the State of Texas. My records indicate that I was court appointed counsel for one Vernon T. Cobb who was the defendant in a criminal case tried in Harris County District Court before Judge Myron A. Love on November 24, 1970. My recollection is that Mr. Cobb was tried while wearing some sort of jail clothing.

However, I have no other independent recollection about this trial. I do not remember at this time the reason why I did not object to the wearing of jail clothes by Mr. Cobb nor why I did not request that Mr. Cobb be allowed to wear civilian clothes at such trial. Further, I would state that from my past associations and dealings with Judge Love, it is my opinion that he would have sustained any objection to a defendant's wearing jail clothes and would have made every reasonable attempt to see that the defendant was supplied with civilian clothing to wear at a trial.

s/ Clarence Kendall
CLARENCE KENDALL

The above and foregoing Affidavit was sworn to and subscribed before me by Clarence Kendall on the 28th day of June,

1973, to certify which, witness my hand and seal of office.

s/ Allene Hopkins
Notary Public, Harris
County, Texas

ESTELLE'S EXHIBIT NO. 4

STATE OF TEXAS §
§
COUNTY OF HARRIS §

AFFIDAVIT

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared J. Weir, known to be a competent and credible person and over the age of twenty one (21) years, and who, after being duly sworn did depose and say as follows:

My name is J. Weir. I am a practicing attorney licensed to practice law in the State of Texas. I served as court appointed counsel for John Clyde Bradley, who was the defendant in a criminal case tried in Harris County District Court before Judge Myron A. Love on November 23, 1970. My best recollection is that Mr. Bardley was tried before a jury in jail clothes. To my recollection neither

I nor my co-counsel, Mr. Maurice Westerfield, objected or made a request that the defendant be tried in civilian clothing.

s/ James L. Weir
J. Weir

The above and foregoing Affidavit was sworn to and subscribed before me by J. Weir on the 5 day of July, 1973, to certify which, witness my hand and seal of office.

s/ Carol A. Goedeke
Notary Public, Harris County, Texas